

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 09 CR 660 (S-1) (JG)

:

-against-

:

United States Courthouse
Brooklyn, New York

BETIM KAZIU, also known as :
"Abdurrahman al Albani,"
"Abdul Wahab al Albani"
and "Sayf-Ul-Islam,"

Defendant. : July 1, 2011
9:30 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JOHN GLEESON
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government:

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16 Proceedings recorded by mechanical stenography, transcript
17 produced by computer-aided transcription.

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1 (The following occurred in the absence of the jury.)

2 THE COURT: Good morning.

3 Are you ready to go?

4 MR. DuCHARME: I am, Your Honor.

5 MR. DRATEL: Yes, Your Honor. I believe so. I am
6 not sure where Mr. Stern is.

7 THE COURT: I see him. He is coming in.

8 MR. DRATEL: Okay. He is here. Here he comes.

9 THE COURT: Yes. I see him coming in.

10 MR. DRATEL: Here he comes.

11 (The defendant is present.)

12 THE COURT: Okay. Seat the jury, please.

13 THE CLERK: Yes, Your Honor.

14 (Jury present.)

15 THE COURT: Good morning, everybody.

16 Nice to see you.

17 Have a seat, please.

18 We are ready to resume. Mr. DuCharme.

19 MR. DuCHARME: Thank you, Your Honor.

20 (Continued on next page.)

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1 E V A N K O H L M A N N ,

2 called as a witness, having been previously duly

3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. DuCHARME:

6 Q Good mortgage, Mr. Kohlmann.

7 A Good morning.

8 Q If we can just resume where we left off at the end of the
9 day yesterday.

10 You mentioned that you had served as an expert
11 witness previously for the Justice Department?

12 A That is correct, yes.

13 Q Have you also provided assistance to the FBI in
14 connection with ongoing investigations?

15 A Yes, I have, and I do.

16 Q Over approximately what period of time did you provide
17 assistance to the FBI?

18 A We began working with the FBI in approximately 2003.

19 Q Did that continue to the present?

20 A Yes, it does.

21 Q Have you received compensation for assistance you have
22 provided to the FBI?

23 A Yes, I have.

24 Q Approximately how much have you been compensated by the
25 FBI over all those years?

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1 A Since 2003, it's been about eight years -- about \$60,000.

2 Q Are you also financially compensated for providing
3 assistance to the US Government by serving as an expert
4 witness in this case?

5 A Yes, that's correct.

6 Q Approximately how much have you earned for the work that
7 you have done in connection with this case?

8 A I believe thus far I have earned approximately 35 or
9 \$40,000.

10 Q And yesterday you mentioned something called the global
11 jihadist movement.

12 A That is correct, yes.

13 Q Can you please describe to the jury generally what you
14 mean by the global jihadist movement?

15 A Sure.

16 Aside from organizations that explicitly advertise
17 relationship with Al Qaeda, being the terrorist organization
18 in Afghanistan, there are other groups out there which are
19 officially a part of Al Qaeda but which essentially advertises
20 the fact that they consider themselves to be part of the same
21 methodology, the same etiology. So when their leaders issue a
22 statement, at the end they will hale Al Qaeda. They will say
23 we are not part of Al Qaeda but good luck, brothers. We are
24 with you.

25 The idea being that there are a variety of

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1 organizations out there, they don't all agree on every single
2 point but the one thing that they do agree on is the necessity
3 of engaging in violent course of action themed around the idea
4 of a holy struggle, an Islamic holy struggle.

5 Again, these people don't always agree on
6 everything. The one thing they do agree on is that. So they
7 together comprise what we know as the global jihadi movement.

8 Q What are some of the most prominent --

9 THE COURT: It occurs to me -- sorry to interrupt,
10 Mr. DuCharme -- I haven't really spoken to you about expert
11 testimony. Let me just briefly tell you a little, give you a
12 little legal framework here.

13 This gentleman is not a fact witness. He is an
14 expert witness. Fact witnesses testify about the events, the
15 historical events that are at issue in the case, factual basis
16 of the government's case against the defendant.

17 He doesn't bring to bear anything in that regard.
18 Rather, there are occasions, and this is one of them, in my
19 judgment, in which there are certain aspects of a case, of a
20 case whose context is beyond the knowledge of an average
21 juror, an average lay person, or average judge, for that
22 matter, and in situations like that, expert witness who by
23 virtue of their training or education or experience have
24 expertise on a subject and are allowed to provide in some
25 instances opinions, in instances like this probably more

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1 accurately characterized as background for the case. You will
2 hear some testimony, you've already heard some, about this
3 global jihadist network or whatever terminology Mr. Kohlmann
4 uses.

5 It is very important to understand that as useful as
6 you decide this testimony is to you in determining the facts,
7 the determination of the facts is left entirely up to you. At
8 the end of the day the question is going to be whether the
9 government has proven that the defendant with respect to one
10 charge conspired to lend material support to a terrorist
11 organization. That's fact question on which you are the
12 arbiters and you alone. To the extent this expert testimony
13 assists you in that regard, so be it.

14 But this gentleman is not here to render opinions or
15 to render a view about the facts in dispute in this case. He
16 will provide some background that I think will be useful to
17 you within which you will determine the facts.

18 It is important to understand, as important as
19 expert testimony is, the limits of it. It is by no means a
20 substitute for your determination of the facts of the case.

21 Okay?

22 Does anybody want to be heard with regard to the
23 instruction?

24 MR. DuCHARME: No, Your Honor.

25 MR. DRATEL: No, Your Honor.

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1 THE COURT: All right. Sorry for the interruption.

2 MR. DuCHARME: No. Thank you, Your Honor.

3 THE COURT: Go ahead.

4 EXAMINATION CONTINUES

5 BY MR. DuCHARME:

6 MR. DuCHARME: Your Honor, I was having a little bit
7 of difficulty hearing the witness. Would it be all right to
8 move the microphone up to the edge of the bar to see if it
9 reaches?

10 THE COURT: Sure.

11 THE WITNESS: Does that work?

12 Q If we can try it?

13 A Sure.

14 Q Thank you.

15 A No problem.

16 Q Now, Mr. Kohlmann, what are some of the most prominent
17 jihadist organizations?

18 A Well, I'm sure everyone in this room is probably familiar
19 with Al Qaeda, the terrorist organization Al Qaeda. That's
20 not the only jihadi movement out there. There are other
21 groups as well.

22 For instance, in Somalia, in the east coast of
23 Africa, there is a group called Shabaab Al-Mujahideen, which
24 in Arabic means the mujahideen youth movement. Obviously, it
25 doesn't have the name Al Qaeda in there but Shabaab considers

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1 themselves to be quote unquote on the same path as Al Qaeda.
2 They study Al Qaeda's methodology. They mimic Al Qaeda's
3 tactics and actually bring in advisors from terrorist
4 organizations like Al Qaeda to provide them advice and insight
5 and guidance and training. This is how they mimic these
6 tactics.

7 So again, they don't have Al Qaeda in the name but
8 they are also part of the global jihadi movement.

9 Q Are there any groups like that in Chechnya?

10 A Yes.

11 As a matter of fact, there is a group in Chechnya
12 has been around since approximately 1996, which goes by a
13 variety of names but which is known most commonly as the
14 Islamic Army of the Caucasus. The Caucasus is this region of
15 Southern Russia, just north of Iran.

16 In this region, you have Chechens that are fighting
17 against Russian military forces and in addition to Chechen
18 nationalists you also have Chechen jihadi, people that believe
19 that the only solution for obtaining their rights is through
20 violent Islamic holy war. These individuals, even though they
21 don't have the name Al Qaeda in their name, they consider
22 themselves to be along the same lines as Al Qaeda.

23 They were even once led by an individual who was of
24 Saudi Arabian descent and who fought with Bin Laden in
25 Afghanistan. The idea is that these movements all tend to

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1 have similar roots. They tend to have leaders who know each
2 other and they tend to mimic the same tactics of each other.

3 Q Mr. Kohlmann, I believe you said you had a basic
4 understanding of some Arabic vocabulary terms that you have
5 come across in the course of your research, is that correct?

6 A That is correct, yes.

7 Q Now, what I would like to do now, and I have provided in
8 advance a copy of these terms to the court reporter so that we
9 may be able to move through them fairly quickly, but I would
10 like to ask you to just briefly define a list of some Arabic
11 terms.

12 A Of course.

13 Q Jihad?

14 A Jihad means holy struggle. It's an Arabic word that
15 means holy struggle. It can either mean an internal struggle.
16 In other words, you are fighting against the desire to smoke
17 cigarettes or you are fighting against alcoholism. That would
18 be an internal jihad.

19 But when you are talking about an external struggle,
20 an external struggle beyond yourself, that generally means a
21 physical violent struggle for political objectives.

22 In the contemporary context, because of world events
23 that have taken place in the last ten or 15 years, jihad
24 increasingly has become more associated with the physical
25 element, the violent element. Because it has such a weighty

1 meaning, that word itself has so much meaning in it.

2 Q Mujahideen?

3 A Mujahideen is another Arabic language word that comes
4 from the root word jihad. It means holy warriors.

5 Q Mujaheed?

6 A A mujaheed is a single -- a single -- it is a singular
7 version of mujahideen. Mujahideen is holy warriors. Mujaheed
8 is a single holy warrior.

9 Q Shaheed?

10 A A shaheed, another Arabic language word, means martyr.

11 Q Jannah?

12 A Jannah is in Arabic means paradise.

13 Q Kunya?

14 A Kunya is a name, like a pseudonym or nickname, that
15 people in the Arabic language world take. These nicknames are
16 formed very simply by taking the name of your first born
17 child, adding the Arabic equivalent to father in front of it,
18 and in the last part of the name is a geographic indicator.

19 So, for instance, if I had a son named Adam, and I
20 was from New York, my kunya would be Abu Adam, the father of
21 Adam, Al-Newyorkie. In other words, from New York.

22 You can also do Al-Ameriki, the American; Al-Albani,
23 the Albanian; Al Iraqi, the Iraqi. These are just the way
24 that these names are constructed.

25 Q Deen?

1 A Deen in Arabic means religion. In other words, the
2 religion of Islam.

3 Q Kuffar?

4 A Kuffar is an Arabic language word, refers to the
5 disbelievers, people that disbelieve in Islam. It's also
6 known -- it's also -- another synonym would be infidels.

7 Q Hijra?

8 A Hijra is another Arabic language word which means
9 emigrating, to migrate. This goes back to Islamic history
10 when the Prophet Mohammad was forced to emigrate from the
11 Arabian peninsular in order to gather his forces before coming
12 back. The idea of immigrating to an Islamic land, immigrate
13 from a non-Islamic land to an Islamically ruled land. This is
14 something that conservative Muslims believe is a central part
15 of their obligation to their religion.

16 Q Dar al-Iman?

17 A Dar al-Iman means the house of faith. In other words,
18 this is referring to the idea that the world is divided
19 between two different spheres. One sphere is the Dar al-Iman,
20 the house of Islam, the house of faith, the area in which
21 Islam is dominant.

22 Q Dar al-Kufr?

23 A Dar al-Kufr is referring to the other sphere of the
24 world, the area in which the disbelievers or the infidels are
25 in charge.

1 Q Jannat ul firdaws?

2 A Jannat ul firdaws, this refers to the highest levels of
3 paradise. Before I said jannah. Jannah is paradise. Jannat
4 ul firdaws is the highest level of paradise. This is a reward
5 that is meant to be reserved for individuals who are martyred
6 in the cause of Islam. In other words, who sacrifice their
7 lives and their well-being in the Islamic cause.

8 Q Dunya?

9 A Dunya is the material world. In other words, the world
10 is divided between the spiritual world and the material world,
11 material wealth. Dunya would be material wealth. It would be
12 cash, it would be titles, it would be things of this
13 existence.

14 Q Rahman?

15 A Rahman means mercy.

16 Q Zalimun?

17 A Zalimun is an Arabic word which refers to the
18 polytheists. In other words, people who do not believe in one
19 God but believe in multiple gods. This is a violation of one
20 of the central precepts of Islam, which is monotheism.

21 Q Jahannam?

22 A Jahannam is hell. It's the opposite of paradise.

23 Q Qadr?

24 A Qadr is destiny. In other words, my destiny, my qadr is
25 to do something.

1 Q Sujud?

2 A Sujud means prostration. In other words, when you pray,
3 you bow down. That's sujud.

4 Q Tawhid?

5 A Tawhid again refers back to the idea of monotheism in
6 Islam. One of the central tenets of Islam is that there is no
7 God but God. There is only one God, and so tawhid refers to
8 the central concepts of monotheism, that there is only one
9 God.

10 Q Salat?

11 A Salat means prayer.

12 Q Zakat?

13 A Zakat is a tithe. It is a religious tax that Muslims are
14 obliged to pay each year for charitable purposes.

15 The definition of charity varies. Some people
16 believe that zakat should go exclusively to orphans and
17 widows. Other people believe that zakat should also be
18 directed to Islamic political causes.

19 But either way, it's a required religious tax.

20 Q Hajj?

21 A Hajj refers to an obligatory -- each Muslim is required
22 during his lifetime to make the hajj. You go on hajj. This
23 is a journey to the city of Mecca and the city of Madina in
24 the Arabian peninsular. The idea is that religious Muslims
25 are required to visit the holy places of Islam, the sanctities

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1 of Islam, and see for themselves Islam came to be from the
2 Arabian peninsular.

3 Q Umrah?

4 A Umrah is a lesser hajj. In other words, there are
5 particular times in the season, i.e, Ramadan, the height of
6 the Muslim calendar, when the hajj is prescribed. However, if
7 you are not able to go during that time of the year, you can
8 also go other times of the year. But in that case it's no
9 longer called the hajj. It is called umrah.

10 Q Thank you.

11 Just a few more, Mr. Kohlmann.

12 A Sure.

13 Q Ummah?

14 A Ummah refers to the Islamic community at large. In other
15 words, the greater global Islamic community.

16 Q Halal?

17 A Halal means permissible. It means you can eat it, you
18 can do it, under Islamic law.

19 Q Haram?

20 A Haram means forbidden. In other words, something that is
21 forbidden under Islamic law.

22 Q Calafate?

23 A The calafate is a reference to the Islamic empire, the
24 idea being that in Islam there is a history of calafates
25 ruling over the Islamic world, Islamically guided empire which

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1 is -- which oversees the Islamic lands, Islamic territories.

2 Q Ishtikara?

3 A Ishtikara is seeking guidance from God for a particular
4 subject. If you are looking for particular insight, specific
5 type of prayer, looking for guidance.

6 Q Hur al ayn?

7 A Hur al ayn is the virgin of the paradise. Martyrs in
8 Islam, individuals who are martyred, one of the rewards that
9 they are given upon martyrdom is 70 virgins, the virgins of
10 paradise. So those virgins are referred to as hur al ayn.

11 Q Thank you.

12 What do the words Al Qaeda mean?

13 A Al Qaeda means the base, or the solid foundation.

14 Q Just very generally, what is Al Qaeda?

15 A Al Qaeda is a terrorist organization which was founded in
16 September 1988 by a group of exiles on the Afghan-Pakistan
17 border. They perceived that there was an opportunity for them
18 to wage a global struggle against the United States and its
19 allies, with the idea of evicting US influence from the
20 Middle East and the Muslim world and with the idea of
21 resurrecting a greater Islamic empire throughout the Middle
22 East.

23 Q Who has Al Qaeda expressed opposition to?

24 A Al Qaeda has expressed opposition to several different
25 parties. Most importantly, the United States. However,

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1 Al Qaeda also has threatened US allies and US partners, states
2 around the world, everything from Saudi Arabia, Israel,
3 Algeria, Europe. You name it.

4 Q And very generally, how does Al Qaeda operate?

5 MR. DRATEL: Objection, Your Honor.

6 THE COURT: Overruled.

7 A Al Qaeda operates by -- well, a number of different ways.
8 There is Al Qaeda the organization and then there is Al Qaeda
9 the etiology.

10 Al Qaeda the organization attempts to recruit people
11 directly to attend training camps in foreign countries, such
12 as Afghanistan, to fight against the enemies of Al Qaeda,
13 wherever they be, either on the battlefield in places like
14 Afghanistan or Iraq or, alternatively, right here inside US
15 borders.

16 However, aside from Al Qaeda the organization,
17 Al Qaeda has also done its best to advertise itself as a
18 running etiology, for people to follow, even if they aren't in
19 Afghanistan or Iraq. In other words, if you watch our videos,
20 if you read our manuals, you too can be Al Qaeda even if you
21 have never been here, even if you've never met us.

22 Q Until recently, who was the leader of Al Qaeda?

23 A Until very recently, the leader of Al Qaeda was Sheikh
24 Osama Bin Mohammed Bin Laden.

25 Q Is Al Qaeda confined to any particular geographic region?

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1 A No.

2 There are particular regions in which Al Qaeda has
3 an established presence. But the reality is is that Al Qaeda
4 has resources and operatives all over the world, in many
5 obscure countries as well as the countries that you would
6 recognize from the evening news.

7 Q Can you just give a few examples of some of the places
8 Al Qaeda has been known to operate?

9 A Sure.

10 Al Qaeda obviously has been known to operate in
11 places like Afghanistan, Iraq, Saudi Arabia. However,
12 Al Qaeda has also been known to operate in places like United
13 States, Western Europe, Russia, Central Asia, even in the
14 Balkans.

15 Q Are the members or supporters of Al Qaeda limited to any
16 particular nationality or ethnic group?

17 A No.

18 The whole idea behind Al Qaeda was that it was
19 supposed to be a group in which nationality was meaningless.
20 In other words, as long as you were committed to the cause,
21 didn't matter what language you spoke, didn't matter what your
22 pedigree was, didn't matter who your parents were. It would
23 give you an opportunity at making a real difference, at least
24 in terms of what the values of these individuals were.

25 Q You spoke previously about Al Shabaab.

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1 A Yes.

2 Q Can you elaborate just a little bit more about what
3 Al Shabaab is?

4 A Of course.

5 In approximately 2007 and 2008, a group began rising
6 in Somalia calling itself the Shabaab Al-Mujahideen movement,
7 Shabaab meaning the mujahideen youth movement. The movement
8 itself was founded primarily by two Somali or three Somali
9 individuals, most of whom had received training with Al Qaeda
10 in Afghanistan. In fact, several of these individuals were at
11 Al Qaeda camps when they were struck by US missiles. Later
12 these individuals returned to Somalia and they decided that
13 they wanted to create their own Taliban or Al Qaeda themed
14 movement inside of Somalia. So they founded Shabaab.

15 Shabaab began waging a war against the
16 internationally recognized Somali transitional federal
17 government and also began waging a war against the government
18 of Ethiopia, the government of Burundi, the government of
19 Uganda, and the African Union. The reason being that the
20 African Union contributed peacekeepers to try and stabilize
21 the situation in Somalia and Shabaab viewed that as an act of
22 war.

23 Since then Shabaab has carried out terrorist attacks
24 including suicide bombings --

25 MR. DRATEL: Objection, Your Honor.

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1 THE COURT: Overruled.

2 A -- both inside and outside of Somali borders.

3 Q Have there been clashes between Al Shabaab and US forces?

4 A Yes, there have.

5 US military has launched several raids involving
6 both missiles, helicopters, aircraft and commandos, targeting
7 high ranking Al Qaeda fugitives who are being sheltered or
8 serving leadership positions within Shabaab Al-Mujahideen in
9 Somalia, the most recent of which took place last week.

10 Q Are you familiar with someone named Abu Mansour Robow?

11 A Mukhtar Robow, yes.

12 Q Who is that?

13 A Mukhtar Robow, whose kunya or pseudonym is Abu Mansour,
14 is one of the original founders of the Shabaab Al-Mujahideen
15 movement in Somalia. Mukhtar Robow was one of the individuals
16 who received training at an Al Qaeda camp in Afghanistan. He
17 actually spoke about this later on in the video that was
18 released by Shabaab.

19 Mukhtar Robow up until about a year ago was the
20 official spokesman of the Shabaab movement in Somalia. He is
21 also someone who continues to play a very, very important
22 leadership role within that organization.

23 Q Are you also familiar with someone named Abu Mansour
24 Al-Amriki?

25 A Al-Amriki, yes. The kunya here, the pseudonym meaning

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1 Abu Mansour Al Amriki, the American. This individual's real
2 name is Omar Hammami, H A M M A M I. Omar Hammami is a former
3 resident of Mobile, Alabama, who traveled over to Somalia in
4 approximately 2008 to join Shabaab Al-Mujahideen. He is
5 currently considered to be a senior leader and organizer of
6 Shabaab Al-Mujahideen in Somalia. He is both a spokesman in
7 their videos and he's also a military commander on their
8 behalf. He runs training camps for foreign fighters in
9 Somalia and he's considered to be a significant player within
10 the Shabaab movement.

11 Q Does Al Shabaab operate outside of Somalia?

12 A Yes, it does.

13 Q How so?

14 A Well, in a number of different ways.

15 Number one, Shabaab has resources all around the
16 world. Some of Shabaabs leaders have actually come from right
17 here in the United States. Others have come from places like
18 Sweden.

19 But beyond that, Shabaab has also aggressively
20 sought to target its enemies outside of the borders of
21 Somalia. Approximately one-and-a-half years ago, Shabaab
22 Al-Mujahideen launched a series of suicide bombings attacks in
23 Kampala, Uganda.

24 MR. DRATEL: Objection, Your Honor; relevance; 403.

25 THE COURT: Overruled.

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1 A Again, approximately a year and a half ago, Shabaab
2 Al-Mujahideen carried out a series of suicide bombing attacks
3 in Kampala, Uganda, targeting World Cup watching celebrations
4 which killed a number of people, including I believe a US
5 national.

6 Q Are you familiar with the term designated foreign
7 terrorist organization?

8 A Yes.

9 Q What does that mean generally?

10 A In approximately 1996, the US Government came up with a
11 special designation for terrorist organizations abroad and
12 they began designated them as what are known as FTOs, Foreign
13 Terrorist Organization. An organization that receives that
14 kind of designation from the US Government is essentially
15 blacklisted. Its members and leaders are unable to travel to
16 the United States. Any bank resources they have in US
17 financial institutions are seized. In other words, cash
18 resources, real estate, anything like that. If these
19 individuals come to the attention of foreign law enforcement,
20 the US Government will seek their extradition and will seek to
21 prosecute them.

22 Q Is Al-Shabaab a designated foreign terrorist
23 organization?

24 A Yes, it is.

25 Q Do you know when it was designated?

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1 A I believe February of 2008.

2 MR. DuCHARME: Your Honor, I am offering on consent
3 and would like to publish Government Exhibit 934.

4 MR. DRATEL: Yes, Your Honor.

5 THE COURT: Received.

6 (Marked.)

7 Q Can you see that, Mr. Kohlmann?

8 A Yes, I can.

9 Q What is that?

10 A This is a press release dated February 26, 2008, from the
11 Office of the Coordinator For Counterterrorism for the US
12 State Department. This is a reprint of something that was
13 published in the Federal Register. The US government has an
14 official publication whenever they are announcing something
15 important. They put it in there. It is called the Federal
16 Register. This is a reprint of something from the Federal
17 Register which announces the designation of Shabaab
18 Al-Mujahideen, a/k/a Al Shabaab in Somalia as a designated
19 foreign terrorist organization pursuant to US law.

20 Q Thank you, Mr. Kohlmann.

21 You also mentioned before something called the
22 Islamic Army of the Caucasus?

23 A Yes.

24 Q Are there any prominent figures associated with that
25 movement?

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1 A Yes.

2 Q That organization?

3 A The original founder and leader of the Islamic Army of
4 the Caucasus is a very, very well known figure. He's now
5 dead. He has been deceased since 2002. However, he has
6 become a very important inspirational figure even now, even
7 after death, among jihadists all over the world. His name is
8 Suwailem, but he's better known by his kunya, or his nickname,
9 his combat pseudonym, which was Al-Ibn-Ul-Khattab.

10 Ibn-Ul-Khattab was a young Saudi Arabian national
11 who in approximately 1987 traveled to Afghanistan to join
12 Osama Bin Laden. He fought with Bin Laden side by side in the
13 late 1980s in Afghanistan.

14 After the end of the Afghan war, instead of
15 following Bin Laden further, he decided to turn his attention
16 in a slightly different direction. He traveled to a variety
17 of different countries trying to start up jihads or holy wars
18 there. Among those places he traveled were Tajikistan and
19 eventually Chechnya. In Chechnya, he began waging a war
20 against the Russian Army, including guerilla attacks,
21 including suicide bombings and a variety of other tactics that
22 were devastating.

23 Ibn-Ul-Khattab was also blamed by the Russian
24 government for involvement in bombings in Moscow in 1999,
25 targeting civilian apartment buildings.

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1 Q Are you familiar with someone named Anwar Al-Awlaki?

2 A Yes.

3 Q Very briefly, who is Anwar Al-Awlaki?

4 A Anwar Al-Awlaki is a Yemeni American cleric originally
5 from Las Cruces, New Mexico. Anwar Al-Awlaki is currently a
6 fugitive. He is currently in Yemen. He has in the past few
7 years become an advisor, an official advisor to Al Qaeda in
8 the Arabian peninsular, which is the regional Al Qaeda branch
9 active in Yemen. Al-Awlaki has appeared in video recordings,
10 endorsing Al Qaeda in the Arabian peninsular and also taking
11 credit for acts of homegrown terrorism inside the United
12 States.

13 MR. DRATEL: Objection, Your Honor.

14 THE COURT: Overruled.

15 Q Now, you mentioned, Mr. Kohlmann, that a lot of your
16 research or at least some of your research focuses on the
17 Internet.

18 A That is correct, yes.

19 Q What role does the Internet play in how these jihadist
20 groups operate?

21 A Well, Al Qaeda quite obviously doesn't have access to a
22 television station. They don't have their own radio station.
23 So they have to have some other means of getting their message
24 out, both in terms of recruitment, in terms of terrifying
25 their adversaries, in terms of instructing their members.

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1 They have to have a different method of communication.

2 The only method of communication and most effective
3 method of communication that they have is via the Internet.

4 The purpose of the Internet is that these folks need to reach
5 out to would be recruits all around the world. There is not a
6 lot of people that want to join Al Qaeda or any of these other
7 jihadi movement. It's a few people here and there.

8 In order to reach out to that number of people, the
9 only way to do it is to have a mass communication method and
10 the Internet works like that. The Internet allows Al Qaeda
11 to, number one, broadcast its political messages. Number two,
12 it helps inculcate would be recruits who want to join Al Qaeda
13 or another jihadi group about what is life like on the front
14 lines, what am I expected to do, what kind of knowledge am I
15 expected to have.

16 There is an instructional element, there is an
17 inspirational element, there is a recruitment element. And,
18 most importantly, the Internet is bidirectional. Meaning that
19 if you like what you see on the Internet, you can reach out
20 directly and write back do Al Qaeda.

21 Q Is there a lot of jihad related material available on the
22 Internet?

23 A If you know where to look, there is a significant amount,
24 yes.

25 Q Does the quality or nature of that material vary?

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1 A Yes, it does.

2 Q For example, are some jihad related materials any more
3 sophisticated than others?

4 A Yes.

5 In the context of the various video recordings and
6 audio recordings and magazines that are released by these
7 groups, certain releases are frankly not very important and
8 don't get a lot of attention. Certain video recordings are
9 part of the classics. They are the classic video recordings
10 that Al Qaeda or other jihadi organizations put together and
11 they have become must see viewing for individuals who consider
12 themselves part of this movement.

13 Particular videos have particular scenes or
14 particular statements that really resonate among this audience
15 and those are the video recordings that we see come up again
16 and again and again. They get reposted again and again and
17 again on the Internet. Those are the ones that are the most
18 popular because those are the ones that provide the most
19 actual information and benefit to those watching.

20 Q Of that category of material, the more sophisticated or
21 beneficial as you say, how are those actually created?

22 A They are actually created on the ground in Afghanistan.
23 Al Qaeda and other jihadi groups have their own individual
24 media links and these folks are pretty smart and they are
25 pretty adept and they have access to software, like Final Cut

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1 Pro, which is an Apple product which allows them to put
2 together Hollywood worthy video productions on a very bargain
3 basement price. They are very dedicated to this. Some of
4 these groups release two, three, four full length video
5 recordings a month.

6 Q Do Al Qaeda or Al Shabaab have their own dedicated media
7 wings?

8 A They do indeed.

9 Q What are those?

10 A Al Qaeda's -- Al Qaeda central anyway, in other words,
11 Al Qaeda Osama Bin Laden, his official media wing is known as
12 As-Sahab, which means the clouds. As-Sahab is the official
13 media wing of Al Qaeda. Every single video you've ever seen
14 of Bin Laden, of Doctor Ayman Al-Zawahiri, the deputy
15 commander of Al Qaeda, of training camps in Afghanistan, every
16 single one of those videos was put together by As-Sahab.

17 Q What about Al Shabaab?

18 A Al Shabaab also has its own media wing. That media
19 wing is known as Al Kataaib --

20 Q Spell that?

21 A Sure of course; K A T A A I B. And Al Kataaib means the
22 brigade.

23 Q Mr. Kohlmann, do certain of the materials that are
24 disseminated made by Al Qaeda and other jihadist groups on the
25 Internet, do those materials make it easier for outsiders to

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1 assimilate into a jihadist group?

2 A Yes.

3 These videos are giving you what Al Qaeda would like
4 to show as the day in and day out activities taking place
5 mujahideen front lines, at training camps, on the battlefield.
6 The idea behind this, and Al Qaeda has explicitly said this,
7 is to try to draw in people, to inspire them, to give them the
8 knowledge and the insight and understanding that they are
9 ready to come to the frontline and join a frontline group. If
10 they are not ready to join a frontline, then to learn enough
11 from these videos that they can do something in their own
12 backyard.

13 In other words, learning about Al Qaeda's
14 methodology, learning about the kind of targets it goes after,
15 learning about the kind of methods it uses to attack those
16 targets, and then using that knowledge independently.

17 Q Are jihadist materials like the ones you have described
18 available to people in the United States?

19 A As a matter of fact, they are.

20 Q How?

21 A There are a number of ways in which someone would access
22 these kind of terrorist videos. One such way would be going
23 directly to websites and social networking forums run by
24 Al Qaeda. There are particular such sites which are the
25 original distribution points. However, those sites are

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1 primarily in Arabic and those sites are also primarily
2 password protected, which means that it's difficult sometimes
3 even for hard-core folks to reach those kind of sites.

4 Alternatively, in order to make this material widely
5 available, both the organizations that have created it along
6 with their supporters have taken a lot of this and have tried
7 putting it in places on the web like YouTube. In other words,
8 you don't need a password and you don't need to be terribly
9 sophisticated to get access to YouTube. If you know what you
10 are looking for and you know specifically what to find, you
11 can find some pretty interesting things on YouTube that have
12 direct relations with paramilitary activity.

13 MR. DuCHARME: Your Honor, if I could have the Elmo
14 just for the witness?

15 THE COURT: Yes.

16 MR. DuCHARME: Thank you.

17 Q Mr. Kohlmann, can you see the screen down below you on
18 the desk there?

19 A Yes.

20 Q I am showing you in series a number of exhibits that have
21 been marked for identification as Government Exhibits 801.

22 A Got you, yes.

23 Q 802.

24 A Yes.

25 Q 803.

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1 A Yes.

2 Q 804.

3 A Yes.

4 Q 805.

5 A Yes.

6 Q 806.

7 A Yes.

8 Q 807.

9 A Yes.

10 Q 808.

11 A Yes.

12 Q And 809.

13 A Yes.

14 Q Now, were you asked to address certain -- I'm sorry. One
15 more. 811.

16 A Yes, I recognize that as well.

17 Q Were you asked by the government to address certain
18 videos with the jury here today?

19 A I was.

20 Q Did you make short excerpts of the videos you were asked
21 to address and put them on to DVDs?

22 A I did, yes.

23 Q Are the exhibits that you just looked at true and correct
24 copies of the excerpts of the videos that you were asked to
25 address?

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1 A I believe they are, yes.

2 MR. DuCHARME: Your Honor, at this time the
3 government offers exhibits 801, 802, 803, 804, 805, 806, 807,
4 808, 809 and 811.

5 MR. DRATEL: Your Honor, with the one exception that
6 we discussed yesterday.

7 MR. DuCHARME: That's not included.

8 MR. DRATEL: That's not?

9 MR. DuCHARME: No.

10 MR. DRATEL: Thank you.

11 THE COURT: Received.

12 (Marked.)

13 Q Now, also, Mr. Kohlmann, were you asked to discuss with
14 the jury two documents that you were shown?

15 A Yes, I was.

16 Q Okay. If you will --

17 MR. DuCHARME: These are documents in evidence, Your
18 Honor. They are Government Exhibits 810 and 614. For
19 demonstrative purposes, we have blown them up as boards and
20 marked them with an A suffix. Those are next to Mr. Kohlmann.

21 THE COURT: Okay.

22 Q Mr. Kohlmann, if you look to the wall there, there are
23 three boards.

24 A Yes.

25 Q Okay. Are you familiar with what's on those boards?

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1 A Yes, I have reviewed those boards.

2 Q With respect to the board that is marked 614 A, that's
3 against the wall. If you can take a look at that?

4 Are you familiar with that?

5 A Yes, I am.

6 Q Okay. Now, Mr. Kohlmann, before we address that
7 particular piece of evidence with the jury, what is a nasheed?

8 A A nasheed is a religious song that is an acapella song.
9 Among fundamentalists Muslims the idea of playing instruments,
10 musical instruments is wrong, forbidden. In order to get
11 around that, again, fundamentalist Muslims have come up with
12 the idea of music without instruments, which is not terribly
13 unusual but they call this nasheed music. These songs
14 typically deal with the concepts of martyrdom. They deal with
15 the concept of sacrifice of struggle in Islam. The idea is to
16 appeal to people who are really, really dedicated to this.

17 Some of these nasheeds are very innocuous. They
18 have to do with the central precepts of Islam. Some nasheeds
19 have taken on another meaning. In recent years, there has
20 been a collection of nasheeds that have been created by jihadi
21 supporters around the world and these nasheeds directly refer
22 to acts of violence. You hear gunfire, you hear explosions in
23 the background. You hear audio excerpts from Al Qaeda
24 propaganda videos.

25 In other words, these people are taking the concept

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1 of a nasheed, of a song, religious song, and they are using it
2 to create a soundtrack for jihadi videos, for jihadi media.

3 Q Are you familiar with a nasheed titled Those Who Seek
4 Martyrdom?

5 A Yes.

6 Q Does it also have an Arabic name?

7 A Yes.

8 In Arabic it is known as yeb qha ash sha hadah.

9 Q Can you spell that, please?

10 A No problem. Y E B Q H A, A S H-S H A H A D A H, yebqha
11 ash-shahadah.

12 Q Were you asked to review an audio recording of that
13 nasheed in connection with your testimony today?

14 A I was, yes.

15 Q Were you also asked to look at the document that has been
16 marked 614 A?

17 A I was, yes.

18 Q Okay. What, if anything, did you determine about the
19 relationship between the audio file and that document?

20 A I determined that the document appeared to be, the
21 lyrics, the original lyrics in Arabic, the lyrics in English,
22 and the transliterated lyrics Arabic English characters line
23 by line.

24 Q Mr. Kohlmann, with the Court's permission, I have armed
25 you with a laser pointer, which should be on the desk there.

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1 You have the board, and if you wouldn't mind come being down
2 and situating yourself in a place where the jury could see the
3 board.

4 A Yes.

5 Q What I would like to do, Mr. Kohlmann, with the Court's
6 permission, I have Government's Exhibit 811 on the laptop,
7 which is the audio file we referred to. If you could use that
8 laser pointer -- does that work?

9 A Yes, it does.

10 Q As this plays, if the lyrics that you are hearing are
11 shown on the board, that 614 A, could you just please indicate
12 to jury with the laser pointer where those words appear?

13 A Yes, of course.

14 (Audio plays.)

15 (Audio stops.)

16 Q Thank you, Mr. Kohlmann.

17 You can return to the stand.

18 A Sure.

19 Q Mr. Kohlmann, turning your attention to some of the video
20 files that you were asked to address with the jury.

21 Are you familiar with a video recording called The
22 State of the Ummah?

23 A Yes.

24 Q If you could just remind us what does ummah mean?

25 A Ummah means the Islamic community. In other words, the

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1 greater worldwide Islamic community.

2 Q Generally, what are the origins of the video State of
3 the Ummah?

4 A State of the Ummah is also known by another title. The
5 other title is the Destruction of USS Cole. This was
6 Al Qaeda's very first official propaganda video that it ever
7 created. It was the very first video ever created by its
8 media wing As-Sahab. The video itself was created in the
9 summer, actually late spring of 2001. It was created to
10 document and to mark a terrorist attack on the US military
11 vessel in Arabian gulf, the attack that Al Qaeda claimed
12 credit for.

13 The purpose of the video was to explain the reasons
14 why Al Qaeda was launching attacks on the United States and
15 then to actually document how Al Qaeda was preparing to attack
16 the United States. Most of the classic footage that has been
17 on television showing training camps in Afghanistan,
18 Al Qaeda's training camps, almost all of that footage comes
19 from this one video, which shows at least two different
20 training camps in Afghanistan and a tremendous amount of
21 detailed footage of recruits being schooled at those training
22 camps.

23 Q Approximately how long is this State of the Ummah video
24 recording in its entirety?

25 A It's about -- it's divided into two sections. The first

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1 section is known as The Problem. The second section is known
2 as The Solution. It's approximately 90 minutes long.

3 Q In connection with your testimony today, did you select
4 some very, very short clips from the video material that you
5 were asked to address?

6 A I did, yes.

7 Q Directing your attention to Government's Exhibit 801, the
8 file clips that you made, Mr. Kohlmann, did you choose the
9 names for them?

10 A Yes.

11 What I did was, first of all, I created for each
12 video that I was taking clips from, I created a folder. All
13 the clips from a given video I put all together in the same
14 folder so we would know it all came from one video. Then what
15 I did in order to identify where the clips came from in the
16 video is that I named them with time codes.

17 In the video, any video, you have particular time
18 codes. You fast forward two minutes and the clock sales two
19 minutes or 2:05. In this case, the time codes are exactly out
20 of the original video. So if you went to the copy that was
21 given to me of State of the Ummah and you went to a particular
22 time code listed in those file names, you'd see those
23 excerpts.

24 Q Okay. If we just -- we are going to walk through and
25 publish several of these to the jury, Mr. Kohlmann.

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1 Just to be clear, what the jury is seeing now up on
2 the screen, these are all short excerpts from the State of the
3 Ummah video?

4 A That is correct, yes.

5 You can see the folder marked State of the Ummah.
6 All those clips underneath are all Windows media files and
7 they are all clips taken from the video State of the Ummah
8 a/k/a Destruction of the USS Cole.

9 MR. DuCHARME: With the Court's permission, I will
10 publish the first clip, which for the record is marked 000-140
11 which is the time stamp.

12 (Video plays.)

13 (Video stops.)

14 Q Do you know what we are seeing here, Mr. Kohlmann?

15 A Yes.

16 You are watching the very beginning part of part two
17 of State of the Ummah, The Solution. You are hearing
18 Bin Laden say that the solution is for people to come to our
19 training camps in Afghanistan. And you are looking at footage
20 of what is the Al Farook training camp near Kandahar,
21 Afghanistan. This training camp was in operation from
22 approximately 1998 until September or August really of 2001.

23 MR. DuCHARME: Thank you.

24 I will play the next clip marked for the record as
25 530 to 630.

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1 (Plays.)

2 A This is once again another clip from the Al Farook
3 training camp. You notice that mountain in the background.
4 That's the characteristic backdrop behind the Al Farook
5 training camp. These are Al Qaeda militants at the Al Farook
6 camp. They are holding up their weapons and they are holding
7 up a copy of the Koran.

8 (Video continues to play.)

9 Q What kind of rifles those are?

10 A Those appear to be AK 47 assault rifles.

11 The song that is being sung in the backgrounds talks
12 about revolution, revolution, with blood, with blood -- bidam
13 bidam.

14 (Video continues.)

15 MR. DuCHARME: For the record, the next clip I am
16 playing is 714-918 in government's exhibit 801.

17 (Video plays.)

18 A This is more footage right here. You can see it says on
19 the bottom those are actually Al Qaeda subtitles where it says
20 training at the Al Farook training camp. Sniper training in
21 this case. This here is new footage. This is from another
22 came in Afghanistan, the Tarnak Farms camp, which was right
23 outside the Kandahar International Airport in Southern
24 Afghanistan. This was a senior Al Qaeda leadership compound
25 and training camp. These scenes that you are seeing are

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1 really some of the most classic scenes of an Al Qaeda training
2 camp that you will ever see. These are the videos that most
3 frequently appear on television and whatnot to show what an
4 Al Qaeda camp looks like.

5 (Video continues.)

6 The way that we are able to identify this as being
7 Tarnak Farms is you notice there is a ten-foot wall
8 surrounding this whole camp that's right behind those
9 individuals. There is only one camp that looked like that.

10 (Video continues.)

11 (Video stops.)

12 MR. DuCHARME: For the record the next clip, I am
13 playing is marked two-000-302 from Government's Exhibit 801.

14 MR. DRATEL: Your Honor, just before, I don't want
15 to interrupt, but rather than the -- I have the objection that
16 we had before. I am not sure when he is going to play the one
17 that we had the objection to. I am just -- rather than jump
18 up. I don't know if he is going to stop or keep going. I
19 don't want to interrupt the flow --

20 THE COURT: All right.

21 MR. DRATEL: -- of examination.

22 MR. DuCHARME: I think I know what he is talking
23 about, Judge. I will make clear.

24 THE COURT: That makes one of us.

25 Okay. Thank you.

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1 (Video plays.)

2 A This here is a clip of Bin Laden speaking. Throughout
3 this video, in-between the sections of the training camps, you
4 have advice from Bin Laden. Here Bin Laden says it is
5 imperative that everyone capable of migrating to the land of
6 jihad should do so.

7 Q Do you have an understanding of what is meant by the land
8 of jihad?

9 A Yes.

10 The land of jihad is referring to an area in which
11 there is an Al Qaeda active jihadi frontline. In other words,
12 there is a military frontline in which there is a qualified
13 member of the global jihadi movement fighting on that front
14 line. Al Qaeda is fine if you want to go fight in Somalia or
15 somewhere else, as long as the group that you are fighting for
16 has been properly endorsed and it's a legitimate land of
17 jihad.

18 Q Now for the record, I am playing clip marked 355-450 in
19 Government's Exhibit 801.

20 (Video plays.)

21 Q What are we seeing here?

22 A This is a commando training. These individuals are
23 preparing for a mock assault on a house. You will notice that
24 the targets inside the house are marked with crosses. The
25 idea being that the targets are meant to represent Americans

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1 or Westerners.

2 (Video continues.)

3 This is from inside of the house while they are
4 conducting this training.

5 (Video continues.)

6 You see the targets in the back there with the
7 crosses on them.

8 (Video continues.)

9 Q Now I am going to skip down a few clips here,
10 Mr. Kohlmann.

11 Does Al Qaeda pronounce that there are any
12 requirements necessary for jihad?

13 A Well, there are a number of requirements. But, most
14 importantly, you have to be familiar with the religion in
15 order to participate. You have to be familiar with the actual
16 jurisprudence of Islam.

17 The point is that Al Qaeda doesn't want people
18 coming there because they are gun nuts. They don't want
19 people to go there just because they are looking for a good
20 time. They are looking for people who are really dedicated
21 the principle of Al Qaeda.

22 Q And now skipping down to the time which has been marked
23 200-235 in Government's Exhibit 801.

24 (Video plays.)

25 A Right. Here you have Al Qaeda actually telling you that

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1 physical preparation such as training and weapons is only part
2 of it and that you also need to be spiritually prepared. The
3 idea being that it's only -- it's all well and good to shoot a
4 gun but you have to be ready to sacrifice yourself for this
5 cause.

6 (Video continues.)

7 Q Now, does Al Qaeda also provide detailed instructions on
8 actually how to operate weapons systems?

9 A Yes, it does.

10 MR. DuCHARME: Okay. I am playing now for the
11 record what has been marked as 325-435 within Government's
12 Exhibit 801.

13 (Video plays.)

14 Q What are we seeing here?

15 A This is another clip from State of the Ummah, Destruction
16 of the USS Cole. Here you are watching an instructor at the
17 Al Farook camp and he's showing the operation of a shoulder
18 fired surface to air missile launcher, an SA-7. You see he's
19 showing how to attach the trigger to the device before, the
20 cleaning off the lens, the front targeting lens.

21 Now he's putting in an infrared sensor into the
22 front of it. He explains all that obviously in Arabic but in
23 quite an amount of detail. Here now they are going to fire
24 this missile above the El Farook training camp.

25 (Video continues.)

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1 The purpose of a weapon like this is to shoot down
2 aircraft.

3 (Video stops.)

4 Q Now, do portions of this same video, Mr. Kohlmann, also
5 address Al Qaeda's position with respect to the indoctrination
6 of young people, of children?

7 A Yes.

8 One of the more unusual parts of this video is that
9 at the very end of the video they once again show the same
10 scenes from the training camps that -- some of them that you
11 have just seen, except that instead of individuals going
12 through them who are adults, the people who are marching
13 through these training camps are actually kids, little kids,
14 who are the sons of high ranking Al Qaeda members at Al Qaeda
15 training camps.

16 The idea being that it's not just enough to wage
17 jihad, it's not just enough for you training for jihad, it's
18 that you have to train your entire family for jihad. You have
19 to prepare your entire family for this existence as holy
20 warriors, including little kids.

21 (Continued on next page.)

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1 BY MR. DuCHARME:

2 Q Playing for the record now what has been marked 545-634,
3 Government Exhibit 804.

4 (Video plays.)

5 A This is a children's school right here. These kids are
6 singing jihadi nasheed songs. Here is a son of Osama Bin
7 Laden who is reading a speech about migrating and jihad.

8 Here are the little kids running again through the
9 same training camp at Tarnak Farm just outside of Kandahar
10 International Airport.

11 Q Mr. Kohlmann, you said the video was broken down into The
12 Problem and the Solution.

13 A The original video was The Problem, which was first lots
14 of scenes of carnage against the work and part two, The
15 Solution, dealing with exclusively the training camps.

16 Q And the parts that we have been looking at, are they from
17 The Solution?

18 A They are all from The Solution. None of what you've seen
19 is from part one.

20 Q Does Osama Bin Laden actually expressly address what the
21 solution is to the perceived problem?

22 A Yes, he does.

23 Q Playing now what is marked 905 to 930 in Government
24 Exhibit 801.

25 (Video plays.)

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1 A Right here. "The only solution is jihad, bullets and
2 martyrdom operations..."

3 Q Now, Mr. Kohlmann, were you also asked to look at the
4 other document that has been marked Government Exhibit 810,
5 and we have marked demonstrative 810 A?

6 A Yes, I have.

7 Q And just can you show that to the jury, those two boards.

8 A Both of them?

9 Q Yes, please.

10 A Of course.

11 Q They are in evidence in a smaller form. I know they're
12 hard to read for the jury from there, but generally were you
13 able to determine where the text on those two pages originated
14 from?

15 A Yes. I determined after reviewing those quotations that
16 those were all quotations from speeches -- excerpts from
17 speeches by Al Qaeda leader Osama Bin Laden.

18 Q And what I'd like to do now is, if you could, as you did
19 before coming down with those boards, I'm going to play for
20 you some short video clips from the DVD's you talked about and
21 as those play, if you could with your laser pointer just
22 indicate where, if anywhere, in those documents these
23 particulars quotes match up on the videos.

24 A No problem.

25 (Pause.)

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1 MR. DRATEL: Objection.

2 MR. DuCHARME: For the record, your Honor, if I
3 understand Mr. Dratel's objection, the clip we are going to
4 start with is the one we had the prior ruling on.

5 THE COURT: You prepared the excerpts.

6 MR. DRATEL: Yes.

7 THE COURT: Objection noted.

8 Q So beginning with the clip that is marked 000 to 215 on
9 Government Exhibit 801 in evidence. I'll play this clip, Mr.
10 Kohlmann.

11 A Can you pause that for one second. I have to shift
12 around.

13 Q Sure.

14 (Video plays.)

15 A That clip is actually right here, the clip begins right
16 here. "You have an awakened history from its slumber bringing
17 back memories." That the end of the excerpt.

18 (Video stops.)

19 Q I'm now playing for the record what is marked 255-426, in
20 Government Exhibit 801. If we could do the same exercise, Mr.
21 Kohlmann, if you see this one?

22 A No problem.

23 (Video plays.)

24 A That is right here. "The people of Palestine..." right
25 here, starting with this paragraph.

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1 (Video plays.)

2 Q Now, Mr. Kohlmann, were you also asked to address with
3 the jury a video titled Three Months After the American
4 Invasion?

5 A Yes, I was.

6 Q And, very briefly, could you just tell the jury about the
7 origin of that video.

8 A Of course. Three months after 9/11, essentially one of
9 Al Qaeda's very first video recordings released after the
10 September 11, 2001 terrorist attack on the United States.

11 The video recording showed Bin Laden in a cave in
12 Afghanistan, supposedly in December of 2001, talking about the
13 individuals responsible for the September 11th terrorist
14 attacks and also talking about the fact that he was still
15 alive, still fighting, still waging jihad in Afghanistan.

16 Q And I'd like to play for you now a clip marked in
17 evidence Government Exhibit 802, and if we could go through
18 the same exercise.

19 A I'm going to change placards.

20 Q Sure.

21 For the record, this clip is titled Sheikh Osama Bin
22 Laden 4 in Government Exhibit 802?

23 (Video plays.)

24 A This is the one right at the top the there, "I bear
25 witness that each..." that part.

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1 (Video stops.)

2 Q Mr. Kohlmann, were you also asked to address a video
3 titled Statement From the Mujahideen Sheikh?

4 A That's correct.

5 Q And very briefly, could you just explain to the jury what
6 the origins of that video are?

7 A Again, this is another statement by Osama Bin Laden --
8 another taped audio statement by Osama Bin Laden.

9 Q If we could go through the same exercise, playing here
10 what is in evidence as Government Exhibit 803, and the file
11 marked 2630-2658.

12 (Video plays.)

13 A You can see, "It has been authentically narrated from our
14 messenger..." right here. This is a video dealing with the
15 conflict in Iraq.

16 Q The next clip I'll play in evidence is in Government
17 Exhibit 803, file marked 2700-2745.

18 (Video plays.)

19 A "Hurry, hurry."

20 Q Is this a different version here?

21 A Well, it's the same text. The only thing is here it's
22 written as ya shabaab and there it's written as young man.
23 Shabaab, as I explained before means the youth, the young men,
24 the same basic translation, just translated slightly
25 different.

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1 (Video plays.)

2 (Video stops.)

3 Q Mr. Kohlmann, the next clip I'm going to ask you about is
4 something about ten seconds long, I think, it's not on these
5 boards. Were you asked to discuss with the jury a video or
6 file called May our Mothers be Bereaved?

7 A Yes.

8 Q Generally what is that?

9 A This is another message, an audio message from Osama Bin
10 Laden. The purpose of this message was to issue a threat
11 regarding a series of cartoons that were published in Denmark
12 that were considered to be blasphemes to the Prophet Muhammad.

13 Bin Laden and his supporters decided, or declared
14 that in response to these publication of the cartoon that Al
15 Qaeda would seek some kind of revenge for that publication.

16 Q I will play a very short clip. Government Exhibit 804 in
17 evidence and the file is marked 400-410.

18 (Video plays.)

19 (Video stops.)

20 Q Now, if we could go back to this board exercise, Mr.
21 Kohlmann. Were you asked to address with the jury a file
22 called The Practical Steps For the Liberation of Palestine?

23 A Yes.

24 Q And playing for you a clip from Government Exhibit 805 in
25 evidence, and the clip file number is marked 256-413.

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1 (Video plays.)

2 (Video stops.)

3 A You can see that it begins right there, the paragraph
4 right here at the bottom, "Gaza's youth died."

5 (Video plays.)

6 (Video stops.)

7 Q Now, Mr. Kohlmann, you said that Osama Bin Laden and Al
8 Qaeda at times have pronounced or described lists of places
9 where they would encourage people to fight?

10 A Yes.

11 Q Within this same recording of Practical Steps For the
12 Liberation of Palestine, I just want to now play a short
13 excerpt from the clip, the file titled 450-555.

14 I'm not going to ask you to find this on the board.
15 I just want to draw the jury's attention to that.

16 (Video plays.)

17 (Video stops.)

18 Q So here what is Osama Bin Laden essentially saying?

19 A Bin Laden is suggesting that it's not just about coming
20 to Afghanistan, the idea is to go to any jihadi front line
21 that qualifies, and in the view of Bin Laden that is not just
22 Afghanistan, that is Iraq, Afghanistan, I believe he goes on
23 to say Somalia, Pakistan, Somalia.

24 He's basically talking about North Africa, Algeria.
25 But the idea being this feeds into the idea about the global

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1 jihadi movement. Al Qaeda doesn't necessarily have major
2 resources in all of those places but it does have allies there
3 that are part of the global jihadi movement and that's what
4 Bin Laden is saying.

5 Q That symbol in the bottom right corner of the screen,
6 what is that?

7 A This is the official logo of As-Sahab, of Al Qaeda's
8 official media wing. Ever since about 2005 every single
9 official production of Al Qaeda, anything that is real and
10 legitimate, has that logo on it right there.

11 Q If you could return to the board with respect to one more
12 clip here. And I'm playing the file marked 710 to 754. If
13 you could find this on the board.

14 (Video plays.)

15 (Video stops.)

16 A Right down at the bottom. "In our determination ask me
17 why the coward ness and weakness when our worlds have been
18 filled..." right here.

19 (Video stops.)

20 A It continues right here.

21 Q Thank you, Mr. Kohlmann.

22 A No problem.

23 Q You can return to the stand if you don't mind and we can
24 take those boards down.

25 (Pause.)

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1 Q Mr. Kohlmann, were you also asked to address a video
2 called The Taliban Mujahideen?

3 A Yes, I was.

4 Q And just very generally what are the origins of that
5 video?

6 A That video is actually an excerpt from an Al Qaeda video,
7 a video produced by Al Qaeda As-Sahab Media Foundation.

8 The original video was a full length video by the
9 title of Wings of Paradise Part 4, which was supposed to
10 glorify the struggle and sacrifice of Al Qaeda and Taliban
11 martyrs in Afghanistan.

12 Q And do you know when that was originally released?

13 A I believe in 2009.

14 Q And playing for you what is in evidence as Government
15 Exhibit 806. I will play a portion of this file marked
16 Taliban Mujahideen.

17 (Video plays.)

18 A These are Taliban fighters as opposed to Al Qaeda
19 fighters. These are native Afghanistan. The nasheed song in
20 the background is glorifying their struggle.

21 This is supposed to be the task day-to-day life of a
22 Taliban fighter. You can see them eating, praying. The
23 individual figure with the blue turban is a Taliban martyr, an
24 individual who was with the Taliban, who was a senior
25 commander who was killed.

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1 This is a Taliban fighter prayer. This is as an
2 individual who is also a martyr who was sacrificed. Here
3 these guys are cooking.

4 Q Does the rest of this video continue to show some more of
5 the sort of mundane elements?

6 A I think the daily life of a mujahed is a good way of
7 describing it.

8 Q Mr. Kohlmann, were you also asked to address file called
9 Let the Kuffar Hear Our News?

10 A Yes.

11 Q Generally, what is the background of that file?

12 A Like the previous clip, this was actually a clip, an
13 excerpt taken from a larger Al Qaeda video. The title of the
14 original video was Knowledge is For Acting Upon.

15 It was a large two part video which was supposed to
16 narrate Al Qaeda's involvement and role in the September 11th,
17 2001, terrorist attack in the United States.

18 The video itself contains a number of scenes of Al
19 Qaeda training camps in Afghanistan prior to the attack, the
20 idea being to document Al Qaeda's role, and so this clip here
21 is actually a scene from one of the training camps where
22 individuals have gathered around and they're singing this
23 nasheed song, Let the Kuffar, let the infidels, Hear Our News.
24 In other words, let the infidels hear our cries.

25 Q I'm now playing from Government Exhibit 807 in evidence

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1 the file entitled Let the Kuffar Hear Us.

2 (Video plays.)

3 A Again, these are Al Qaeda fighters. These are not
4 Taliban fighters, these are Arab and other foreign fighters at
5 an Al Qaeda camp in Afghanistan.

6 (Tape stops.)

7 A You can see the song is they're singing about the attack
8 on the USS Cole.

9 Q The videos you just addressed and the audio files you
10 just addressed, Mr. Kohlmann, were these all created by Al
11 Qaeda?

12 A Yes. Those are all official creations of Al Qaeda. Like
13 I said, if you look at the videos themselves it has the clear
14 imprimatur of As-Sahab, of Al Qaeda's official media link. No
15 other organization has that logo on their videos.

16 Q You said earlier I think that Al-Shabaab creates its own
17 videos; is that right?

18 A That's correct. Al-Shabaab has their own media wing, Al
19 Kataaib, which produce their own videos.

20 Q Were you asked to address with the jury two short
21 Al-Shabaab videos, Mujahideen in Somalia Singing and
22 Mujahideen in Somalia Singing Two?

23 A Yes.

24 Q Showing you those files in evidence as Government
25 Exhibit 808.

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1 (Video plays.)

2 Q What are we looking at here, Mr. Kohlmann?

3 A Here you're looking at an individual who is identified as
4 a U.S. national who was killed in Somalia, who is singing a
5 nasheed song with his fellow fighters at a training camp in
6 southern Somalia.

7 This appears to be the Kamsuma training camp.
8 Again, you can see the picture of him down below -- that's a
9 picture of what he looked like after he was killed. And it
10 says right there, Rahim Alim, may God have mercy on him, but
11 again, an American national who was -- singing songs of other
12 Somali fighters who were apparently killed in Somalia.

13 Q And the symbol on the screen in the upper right and the
14 bottom right corner?

15 A The symbol at the very top are the two guns and the green
16 in the background, that is the official logo of Shabaab
17 Mujahideen. And see it again on the bottom right.

18 (Video plays.)

19 A You can see in front of them there are mortar shells, an
20 RPG, grenades, an automatic weapon and on top of it all is
21 perched a copy of the Koran.

22 Q Do you know what language they are singing in?

23 A Yes. Even though this is Somalia, they are singing in
24 Arabic. They are singing actually about Somalia. This is a
25 nasheed very specifically about Somalia. You can hear the men

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1 are being encouraged to sing along.

2 He's talking about Osama Bin Laden. I don't know if
3 you heard him say Bin Laden again.

4 Q This is essentially continuing for some time?

5 A Yes. Again, these organizations put a lot of time and
6 thought into putting these nasheed songs and the performance
7 of these nasheed songs on these videos.

8 It's very common that you'll see individuals on the
9 front line, individuals who are intending to sacrifice
10 themselves singing these kind of songs in groups on videos
11 produced by Al Qaeda, Shabaab Mujahideen and other groups as
12 well.

13 Q The second video file name Mujahideen in Somalia
14 Singing -- the first one was 2, this is without the 2, just
15 Mujahideen in Somalia Singing?

16 A That's correct, yes.

17 (Video plays.)

18 Q What is the symbol here?

19 A Again the top right, that green symbol with crossed,
20 that's how you know this is an official Shabaab mujahideen
21 video.

22 This video was produced by the official media wing
23 of Shabaab in Somalia. These individuals now are singing
24 again another nasheed song. The song that they are singing
25 was actually first popularized in a video produced by Al

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1 Qaeda Central, and then these folks decided to perform it in
2 their own video after they saw it in the original video that
3 came out.

4 These are supposedly members of Shabaab Mujahideen
5 in Somalia gathered around for a meeting, brandishing weapons,
6 again singing songs.

7 Q Do you know what language that is?

8 A Once again, this is Somalia, but they're singing in
9 Arabic. The song that they are singing, again it has been
10 performed before in other Al Qaeda videos. You can see the
11 RPG poking out of the bottom, an AK-47 right there. Another
12 RPG.

13 Q Does the video essentially continue along the same lines?

14 A Yes, again, they are singing the whole song, yes.

15 Q Thank you, Mr. Kohlmann. You spoke before briefly about
16 Anwar Al-Awlaki?

17 A Yes, I did.

18 Q Were you asked to address sort of a sampling of some
19 short clips of Anwar Al-Awlaki?

20 A Actually, it was to create a series of short clips from
21 an audio recording of Awlaki.

22 Q Did you do that?

23 A Yes.

24 Q Government Exhibit 809, we have series of audio files
25 here, short audio files. Did you give the titles to these

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1 clips?

2 A I did. I just took the first few words from whatever
3 section it was. I didn't use time codes, but those are file
4 names that I gave them, yes.

5 Q These are all pretty short. We'll go through them in
6 succession. The first file is titled Allies of Allah?

7 A Allies of Allah, that's right, yes.

8 (Video plays.)

9 Q Do you recognize that voice?

10 A That is Anwar Al-Awlaki.

11 Q How did you become familiar with his voice?

12 A I've listened to pretty much every single audio and video
13 recording that Anwar Al-Awlaki has made.

14 Q The next file is titled Chechnya Somalia Palestine?

15 A That's correct, yes.

16 (Video plays.)

17 (Video stops.)

18 Q What is he saying, Al Haqq?

19 A Al H-A-Q-Q. Al Haqq. He's talking about the path of
20 truth. In other words, there are people on the path of truth
21 in Iraq; there are people on the path of truth in Somalia.
22 He's referring to the jihadi movement in these various
23 different countries?

24 Q I will play the next file.

25 (Video plays.)

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1 (Video stops.)

2 Q The next clip titled Hearts and Minds, Second Gen
3 Muslims?

4 A That's correct, Second Generation, yes.

5 (Video plays.)

6 (Video stops.)

7 Q When Mr. Awlaki talks about youth in the Den of the Lion.
8 Do you have an understanding of what that means?

9 A Yes.

10 Q What does that mean?

11 A He's referring to, I guess you could call them
12 conservative Muslims, young Muslims who are living in
13 non-Muslim countries, i.e., western countries, because the
14 perception is that if you believe in these ideas and you're
15 living in the United States, you're living in the den of the
16 lion, you're living in the mouth of the lion; you're living
17 right in the heart of where your enemies are and that is
18 obviously something that takes a lot of guts.

19 Q I'll skip down to the last one here, Mr. Kohlmann, the
20 last file titled Somalia.

21 (Video plays.)

22 (Video stops.)

23 Q Mr. Kohlmann, these materials that you have just
24 addressed with the jury, before you said that there were
25 certain materials that were available that could be useful and

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1 you went through a number of ways that they could be useful.

2 I'm asking you, with respect to these specific
3 materials that you have just addressed with the jury, in your
4 opinion would these materials in any way be useful to someone
5 who is trying to assimilate with a jihadist group?

6 A Definitely.

7 Q In what way?

8 A Well, I mean if you set aside a for a second the actual
9 instructional element, i.e., the showing how to use a missile
10 launcher and whatnot, these videos are showing someone exactly
11 what they can expect if they head to a jihadi front line or
12 jihadi training camp.

13 This shows exactly the kind of songs they are going
14 to be singing, the kind of languages that are spoken, the kind
15 of subjects and lessons that they are going to be taking. In
16 other words, this is like a preview.

17 The idea for this is that they are filtering out
18 people who aren't serious. If someone sees these scenes, if
19 they see what is going on and are inspired and they think they
20 can become a part of this, then Al Qaeda or Shabaab wants
21 those people to come.

22 But it wants to make sure they know exactly what
23 they're getting into and wants to make sure that have some
24 basic understanding of the methodology before they get there.

25 There is no need, you know, when you're in a

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1 training camp, probably the best time to learn about how to
2 shoot a missile or fire a gun, but learning about the concepts
3 of jihad, the constants of jihad, learning about the kind of
4 targets that these groups go after, learning about the way
5 that the training camps are structured, these are not things
6 that you have to wait to go to Somalia or Afghanistan to
7 learn. You can learn them right in your own backyard.

8 Al Qaeda understands and that so does Shabaab and
9 the other organizations. The idea is to inspire people and
10 give them the basic ground level understanding of exactly what
11 they can expect when they go overseas and join these groups.

12 Q I think you also said that certain materials are
13 considered sort of classics, that people are expected to be
14 aware of those materials?

15 A There are a lot of video and audio recordings out there
16 that are terrorist in nature that --

17 MR. DRATEL: Objection.

18 THE COURT: Overruled.

19 A There are many video recordings and audio recording in
20 books and magazines out there that have relationship to
21 terrorist activities or paramilitary groups, but it happens
22 that particular videos, particular audio recordings,
23 particular clerics resonate amongst this audience and really
24 have tremendous value.

25 Certain video recordings are the ones that get

1 reposted over and over again on jihadi Websites. Certain
2 video recordings are the ones that are discussed amongst
3 people on line when they are chatting about their favorites --
4 some are not, but there are areas -- there is a particular
5 classic series of videos that has tremendous impact.

6 Destruction of the USS Cole, when that was first
7 shown to Al Qaeda trainees in Afghanistan, people went crazy,
8 they started crying, they started cheering. This is the kind
9 of video that has a tremendous impact.

10 Q Which of the specific materials that you addressed to the
11 jury would you put in that category, if any?

12 A Well, I would definitely put Destruction of the USS Cole.
13 That is a classic video produced by Al Qaeda. It has
14 instructional elements, it has inspirational elements.

15 Frankly, all of these videos play certain role in
16 that regard, all of them. That's the purpose why they are
17 created.

18 Al Qaeda and they other groups don't have access to
19 a TV station. When they want to recruit someone, when they
20 want to inspire them, give them an idea of what they can be
21 prepared for, this is the only way that they can communicate
22 that.

23 They use is pretty effectively, everything, again,
24 from again showing people cooking to showing people singing
25 songs. But these are the things you can actually expect to

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1 see when you go to one of these camps.

2 Q Thank you, Mr. Kohlmann.

3 MR. DuCHARME: I have no further questions.

4 THE COURT: Would you prefer to take our break now
5 or do you want to get started?

6 MR. DRATEL: I would like to take a break.

7 THE COURT: We'll break to 11:30.

8 All rise. Don't discuss the case ladies and
9 gentlemen.

10 (Jury leaves.)

11 (Recess.)

12 (Open court.)

13 THE COURT: You may be seated everyone.

14 About how long is your cross, Mr. Dratel?

15 MR. DRATEL: I would estimate it as not more than a
16 half hour. It could be less.

17 THE COURT: Understood.

18 Do you have another witness?

19 MR. DuCHARME: We have Special Agent Roddy, your
20 Honor.

21 THE COURT: All right. How long is her direct?

22 MR. DuCHARME: Maybe 45 minutes tops. Would you
23 want us to begin today?

24 THE COURT: Sure. We'll go to 1 o'clock.

25 (Jury present.)

Kohlmann - cross - Dratel

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1 THE COURT: Be seated everyone.

2 MR. DRATEL: May I?

3 THE COURT: Yes.

4 CROSS-EXAMINATION

5 BY MR. DRATEL:

6 Q Good morning.

7 A Good morning.

8 Q You testified on direct that you testified 15 times in
9 U.S. courts?

10 A That's as an expert witness.

11 Q Right, as an expert witness -- twice in the military
12 commission?

13 A That's correct.

14 Q As an expert, 11 types overseas?

15 A That's correct, yes.

16 Q A total of 28 times since early 2004?

17 A Something like that, yes.

18 Q So that's about four cases a year, right?

19 A It really depends. Last year I testified in one.

20 Q And the only two -- two in 2004 -- you testified twice in
21 2004 and once in 2005?

22 A If you say so. Yes. I'm not sure off the top of my
23 head.

24 Q Then in the subsequent years you testified more, '06,
25 '07, '08, '09?

Kohlmann - cross - Dratel

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1 A Yes. I mean it has to do with the case flow. There
2 happened to be a whole bunch of cases that all came through,
3 some of them which were interlinked, which explains why.

4 Q That doesn't include -- when you talk about testifying,
5 that doesn't sometimes include pretrial hearings as well?
6 Sometimes you testify at trial and hearings?

7 A I have in several cases testified in pretrial hearings
8 although for the most part -- well, I mean I've testified in
9 many pretrial hearings that had to do with my qualifications,
10 but I've only testified in, I think, maybe two cases in which
11 a pretrial hearing, something was relevant for my expert
12 testimony.

13 Q And there are also cases that you worked on where you
14 didn't actually testify for one reason or another?

15 A Yes.

16 Q And those were complications, preparation, all of that?

17 A That's correct, yes.

18 Q And on some days you're testifying more than one day,
19 such as perhaps here -- here you started yesterday and you're
20 continuing today, some of those cases?

21 A I'm sorry, I thought you meant two different cases. Yes.
22 Occasionally my testimony can run -- my testimony can run
23 anywhere from an hour or to to two days, yes.

24 Q Significant amount of time and effort on your part?

25 A It depends on the length of testimony and the amount of

1 evidence.

2 Q I'm not talking about the testimony, I'm talking about
3 the entire case, being an expert?

4 A It certainly can be, yes.

5 Q And it could also be a significant amount of money in
6 these cases?

7 A Yeah. I mean I -- last year I certainly made much more
8 money off of my other endeavors. I get paid to work, to do
9 television work, so that is more lucrative, but yes.

10 Q You charge \$400 an hour for your out of court time to the
11 government, right?

12 A At present, yes.

13 Q And what is your in court fee?

14 A I have a standard hourly rate.

15 Q So it's 400 for your time in court, also while you're
16 waiting in court?

17 A That's correct, yes.

18 Q And you said you -- that is basically -- that is every
19 case that you work for the government at this point?

20 A Well, my rate has gone up over time. It's increased over
21 time. It began I think at -- the first case I testified in I
22 think it was \$200 an hour.

23 Q That was seven years ago when you started, right?

24 A 2003, that's correct, yes.

25 Q And you said you made 60 to 70 thousand dollars from the

Kohlmann - cross - Dratel

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1 FBI, but that doesn't include, let's say, the 30,000 that you
2 said that you've already earned in this case, and also the
3 other cases that you testified as an expert -- that 60, 70
4 thousand is separate, that's for your help in investigative
5 work?

6 A That's correct. The work that we do with the FBI in the
7 investigative side is separate and distinct from the work that
8 we do with the Justice Department on in some matters.

9 Q I think you the evidence in 2007 that your work as an
10 expert witness for the government, it constituted about a
11 third of your income?

12 A It really varied year to year. Last year --

13 Q Did you testify in 2007, though?

14 A In that year I believe so. But like --

15 Q That's my only question.

16 A In 2007, that's correct, yes.

17 Q And you've never testified against the government,
18 correct, on the opposite side of the government in any case?

19 A Not that I'm aware of, aside from maybe a civil case.

20 Q A civil case -- okay.

21 A Yes.

22 Q And you were actually involved in a related investigation
23 to the one here actually working for the FBI in an
24 investigative capacity, correct?

25 A I'm not aware if I was or I wasn't.

Kohlmann - cross - Dratel

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1 MR. DRATEL: Your Honor, just for the witness?

2 THE COURT: Yes. What are you using, the Elmo
3 there?

4 MR. DRATEL: Yes.

5 THE COURT: All right. There you go.

6 Q Showing you 35-EK-1. Does that refresh your
7 recollection?

8 THE COURT: You might want to look to your right.

9 MR. DRATEL: Sorry, your Honor.

10 Q If you need it to be larger -- I will zoom it.

11 A I'm sorry. I didn't understand what you meant. This is
12 work that I would --

13 Q Don't go into detail. Were you involved in an
14 investigative capacity with the FBI in a related case?

15 A I'm not really fully understanding the question. If
16 you're asking -- well, I don't fully understand what you're
17 asking me.

18 Q You are were asked to perform analysis by the FBI, not as
19 an expert witness but analysis of evidence?

20 MR. DuCHARME: Objection.

21 THE COURT: Come up.

22 (Continued next page.)
23
24
25

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1 (Sidebar.)

2 THE COURT: What's happening? I will look at this
3 3500 EK-1.

4 (Pause.)

5 THE COURT: All right. What is the objection?

6 MR. DuCHARME: The objection is that -- to the
7 extent Mr. Dratel can tell us where this is going. We took
8 great pains with Mr. Kohlmann to avoid going into the fact
9 that he was asked to do what Mr. Dratel is now asking him to
10 do, to explain with respect to someone else in this case.

11 In other words, what this is about is there were
12 other people in connection with the drafts. We gave those art
13 drafts to Mr. Kohlmann as he did with Mr. Kohlmann. I took
14 great pains to avoid eliciting that.

15 MR. DRATEL: This is really my only question.

16 THE COURT: Is making him a fact witness?

17 MR. DRATEL: No. About bias.

18 THE COURT: Bias in the sense that he was
19 compensated --

20 MR. DRATEL: No. Bias that as part of the
21 prosecution team and part of the investigative time and not as
22 an independent objective expert.

23 But if it's going to cause an issue with respect to
24 any other issue like the door opening or anything like that, I
25 can take what is in the record to do that.

Kohlmann - cross - Dratel

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1 I wasn't going to go beyond this question. That's
2 why I was trying to fashion it in a way that I got a yes or no
3 answer. If he doesn't remember, he doesn't remember.

4 THE COURT: I think it does contribute to bias a bit
5 if he's not just out there and selected purely for expert
6 purposes, but if he was part of the --

7 MR. DuCHARME: Judge, to the extent that he gets
8 into he's part of the prosecution team, and he's going to try
9 to argue that he's improperly part of the prosecution team, I
10 mean I never got the chance to inform the jury what he
11 actually did in connection with our case.

12 So if there's some inference hanging out there that
13 he did something improper or biased with the evidence in this
14 case, then I'm going to redirect him on what it is he actually
15 did.

16 THE COURT: That's fair ground.

17 MR. DRATEL: I will withdraw the question.

18 THE COURT: All right. That's fair too.

19 (Continued next page.)
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Kohlmann - cross - Dratel

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1 (Open court.)

2 THE COURT: Sorry for the delay. We're ready to go.

3 Go ahead, Mr. Dratel.

4 MR. DRATEL: Thank you, your Honor.

5 BY MR. DRATEL:

6 Q Kosovo is a Muslim country, primarily?

7 A Predominantly, yes.

8 Q How about Somalia, there are a lot of factions that are
9 armed and operating in Somalia, not just Al-Shabaab and the
10 Government of Somalia; correct?

11 A Are you speaking at present or are you speaking at a
12 particular date and time?

13 Q Either presently or -- and even let's say from 2005 till
14 the present?

15 A At the moment, most of the armed factions that were
16 separate from Shabaab, groups like the Ras Kambooni and
17 Hivvul-Ilamh.

18 These were the other main factions. They were all
19 merged with Shabaab. So Shabaab is the only jihadi style
20 factions. There are still warlords, but they are not -- these
21 days Shabaab is really, especially in southern Somalia,
22 Shabaab is the dominant force.

23 Q I'm not talking just about just Islamic, I'm talking
24 about tribal --

25 A Again, in southern Somalia there is a variety of power

1 structures, but at the moment the most dominant within us
2 Shabaab.

3 Q But going back to 2007 to 2009, a different situation?

4 A There was more chaos, put it that way.

5 Q And self-contained groups operated for their own purposes
6 and not as part of a larger group necessarily, in other words,
7 not a part of Al-Shabaab but on their own?

8 A It's very difficult to say that for sure. I would say
9 that these groups were operating with pretty specific intent.

10 By late 2008 most of these folks were already
11 operating under Shabaab's leadership. If you're looking for
12 the really chaotic period it's more '06 and '07.

13 Q And what you said also with respect to Shabaab, it's a
14 word in Arabic meaning youth, right?

15 A 100 percent, yes.

16 Q So that any reference -- I shouldn't say that -- so that
17 every reference to Shabaab in a document or anything else does
18 not mean Al-Shabaab in Somalia, it could mean youth, which is
19 a very common term in the context not only of Arabic but also
20 in terms of jihadist disoriented literature or video?

21 A Yes. Shabaab is like the word youth. If you see the
22 word "youth" it could be talking about the youth movement or
23 it could just be talking about the youth. Yes. Sure.

24 Q I want to talk about Egypt for a little bit. Are you
25 familiar with Muslim Brotherhood in Egypt?

Kohlmann - cross - Dratel

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1 A Yes, I am.

2 Q That is an Islamic organization with a long history in
3 Egypt; correct?

4 A That's correct, yes.

5 Q And there are other more radical Islamic groups in Egypt
6 that while not formally existing like the Muslim Brotherhood
7 still exist underground or in a semi-underground state?

8 A Sort of, yes.

9 Q To a certain extent they're well integrated into Egyptian
10 society even though they may be underground?

11 A Not the jihadi movement, no. For the most part, jihadi
12 movements like the Egyptian Islamic Jihad Movement and what
13 was known as the Egyptian Islamic Group, for the most part
14 they've been wiped out.

15 The remnants that are left are very isolated and
16 they are not easy to find. For the most part, the people that
17 are Egyptian Islamic jihad activists, people like the brother
18 of Anwar Ziwawi are still in prison in Egypt.

19 Q With respect to -- you are familiar with the photographs
20 of Abu Ghraib and the situation at Abu Ghraib Prison in Iraq,
21 right?

22 A Yes.

23 Q And the revelations about that in 2004 and onward?

24 A Yes.

25 Q And Guantanamo Bay and detention there?

Kohlmann - cross - Dratel

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1 A You're referring to allegations of misconduct?

2 Q No, I'm just talking about the detention there,
3 generally.

4 A Yes.

5 Q You have heard of people being detained there without
6 trials going on for decade now, some people?

7 A Yes, I am familiar with that.

8 Q Do you know that there's opposition in some cases with
9 respect to Abu Ghraib, revulsion on the part of people around
10 the world -- not everyone, but there are some people, Muslim
11 and non-Muslim, as to both of those issues, right?

12 A Certainly, yes.

13 (Continued next page)

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Kohlmann - cross/ Dratel

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1 CONTINUED CROSS EXAMINATION.

2 BY MR. DRATEL:

3 Q In fact, that's a pretty mainstream concept, right, not
4 that it's -- I'm not talking about the majority or not
5 majority, but the opposition will say to Guantanamo and to the
6 revulsion at Abu Graib is somewhat of a mainstream point of
7 view?

8 A Sure.

9 Q In fact, you also know about allegations and some
10 confirmation of Koranic issues at Guantanamo?

11 A Yes, those issues I think are to that community in
12 general, although the people that are most upset about that
13 kind of thing are people who are more conservative.

14 Q But Muslims in terms of abuse?

15 A Yes, damaging of the book generally provokes feelings of
16 anger.

17 Q So that that's not an extremist position, people who
18 would be upset with abuse?

19 A It can be.

20 Q Is it always?

21 A It is not always, no.

22 Q In fact, there's a large portion of people who are not
23 members of terrorist organizations who have been upset with
24 that comment?

25 A One hundred percent, yes.

Kohlmann - cross/ Dratel

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1 Q Even non-Muslims?

2 A That is hundred percent, correct, yes.

3 MR. DRATEL: I want to draw your attention back to
4 Government Exhibit 18, which you were working with on the
5 boards. Let me put on the Elmo, Your Honor. D-2 Second
6 paragraph.

7 THE WITNESS: I'm sorry. It is hard to tell.

8 Q Paragraph with the bracket to the side?

9 A Yes, I see it.

10 THE COURT: That is good. Can you read it.

11 Q And what has been authentically narrated from our
12 messenger?

13 A Yes.

14 Q So that is a reference to the Hadith, is it not?

15 A It is a reference to Hadith, yes.

16 Q And those are a collection of recollections by Mohammed's
17 companions, correct?

18 A That is correct, yes.

19 Q And as a source of Islamic law and culture it's a
20 secondary source, second only to the Koran, correct?

21 A That's correct, yes.

22 Q So it had some authoritative quality to it?

23 A As a religious -- yes. Yeah, yeah, sure, yes.

24 Q And so that that is a -- do you know whether that is a
25 reference to Hadith, reference from who?

Kohlmann - cross/ Dratel

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1 A I would say authentically narrated -- it said from the
2 Koran. It would be Koran. When they say narration, it means
3 oral history. In other words, or deed which is orally laid
4 down.

5 Q Now, collected in volumes?

6 A Now, they are written -- written down, yes.

7 Q And also from -- it's Exhibit 3/16 which you were not
8 shown on direct?

9 THE COURT: Is this in evidence?

10 MR. DRATEL: Yes, it's in evidence, Your Honor.

11 Q Can you read it? Large enough to read? Try the screen,
12 right in front of you.

13 A No, it's okay. I can actually see it up there. Yes, I
14 think I see what you are talking about.

15 Q And that's a references to Koranic verses, right?

16 A Yes, I believe this is Zorat or the Al Baqar verse.

17 Q So the part that we bracketed there is it actually says
18 Koran and then there's a little citation afterwards?

19 A Yes, exact verse number in the Koran that that comes
20 from.

21 Q Now, among persons who have an interest in what's
22 happening outside the United States and is it not uncommon if
23 they -- withdrawn.

24 The people who would be interested in the Middle
25 East or Afghanistan, Africa, some people have a mistrust and

Kohlmann - cross/ Dratel

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1 suspicion of mainstream media, correct?

2 A True.

3 Q That they are not getting the full story?

4 A Yes.

5 Q But they are getting a slanted story that is politically
6 consistent with an agenda?

7 A Yes.

8 Q They look to alternative sources to find additional
9 information?

10 A Yes.

11 Q That's a particular feature of the internet, isn't it?

12 A Yes.

13 Q It is one of the aspects of the internet that is most
14 popular in the sense of it's as a source for alternative
15 sources of information for people?

16 A I don't know if I would qualify it as being the most
17 popular, least popular. It is an aspect of what draws people
18 to the internet.

19 Q It has a self-publishing capacity?

20 A Somewhat. It depends on who is publishing and what
21 capacity.

22 Q Even social networks, people comment on radios, in
23 U-tube, all you need is a computer?

24 A Yes, that is true.

25 Q There are no standards?

Kohlmann - cross/ Dratel

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1 A Well, if you slandered someone you could be sued for it.

2 Q No, but I mean in the production of it. Bloggers don't
3 necessarily have fact-checkers, people who comment or post are
4 not governed by set of standards that might be, you know,
5 standards that might be editors necessarily?

6 A It really depends on what specific material you are
7 talking about. If there's a Channel Seven news segment that
8 ends up in the internet I am sure it goes through the same
9 journalistic rigorous --

10 Q Are you suggesting that a blogger has the same standards
11 as the New York Times; is that what you are suggesting?

12 A It really -- I mean it depends on who you are talking
13 about. It depends.

14 Q Any blogger that is --

15 A It depends on who you are talking about. You have to name
16 -- if you name a person I can tell you whether or not they are
17 more credible than the New York Times. Probably not, but
18 there are some bloggers that have a tremendous amount of
19 credibility.

20 Q But anyone can blog?

21 A That is true, yes.

22 Q Well, there's no specific internet capacity for someone
23 looking at the internet other than their own analytical
24 ability to distinguish between fact and fiction in terms of
25 one particular post versus another post?

Kohlmann - cross/ Dratel

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1 A You'd have to give me specific examples.

2 Q I am talking about generally.

3 A I think it is really a case by case basis. It really
4 depends on the content, it depends on the person, it depends
5 on what is at issue. There are so many exogenous factors that
6 go to that, I don't think you can say a general precept.

7 Q Some of the videos you were talking about today, you said
8 that they are very popular, right?

9 A Some of them, yes.

10 Q And in fact, there's some Osama Bin Laden videos that
11 have upward of two and a half million hits on U-tube, right?

12 A That's, correct.

13 Q Other not necessarily quite as many, but certainly
14 approaching more than 500,000?

15 A It really, again, this goes back to -- depends on which
16 video, depends where it was uploaded.

17 Q Some videos, some videos?

18 A Lots. Thousands of people have watched them. I wouldn't
19 settle for a particular number.

20 Q I-B-N K-H-A-T-T-A-b, those videos are very popular?

21 A Yes, very popular.

22 Q And by the way, in terms of alternative sources, you rely
23 on that a lot, too, that is a lot of what you collect?

24 A That is what we collect, yes.

25 Q Also, I don't know if you remember, so I don't have to

Kohlmann - cross/ Dratel

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1 get it on, but there was the Three Months After, are you
2 familiar with that exhibit?

3 A Three Months.

4 Q The Ben Laden speech?

5 A Yes.

6 Q That was an Al Jazeera?

7 A It was as a have to have video that at the time Al Qaeda
8 didn't have access to the internet so the only way they could
9 release these videos at that point was to leak them to Al
10 Jazeera. So what had to happen was to create the video, leak
11 it to Al Jazeera and later on they released it on the
12 internet with their own subtitles.

13 Q And in fact, As-Shabaab logo appears to be designed
14 somewhat to mimic the logo of Al Jazeera, correct?

15 A No, no. It looks like Al Jazeera from a western
16 perspective. It is not designed to mimic the Al Jazeera logo.

17 Q You talked about Anwar Al-Awlaki and some of the other
18 videos and other materials that you went through, and you also
19 mentioned there's a conflict essentially in the Islamic world
20 and some issues such as what is permissible in the context of
21 Jihad?

22 A That's correct, yes.

23 Q And young Muslims can struggle with these competing
24 points of view?

25 A Some people do, yes.

Kohlmann - cross/ Dratel

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1 Q And the question of what their obligations are as a
2 Muslim, how they can be fulfilled?

3 A Yes, I mean there are people that deal with these issues,
4 sure.

5 Q And part of the al-Awlaki message which is -- you're
6 familiar with the Advice For Those Who Stay Behind?

7 A Yes.

8 Q That broadcast?

9 A Yes.

10 Q It is actually guilt-tripping young western Muslims about
11 their lives in a place like United States or other western
12 countries and the exhorting them to perform Jihad?

13 A That's correct, yes.

14 Q And there's a certain appeal in these videos to the
15 concept of military adventure for young Muslims as well?

16 A Yes, these conflicts are painted like a safari, like
17 going on safari.

18 Q Also concept of some military aspect of it as well, like
19 a war movie?

20 A Yeah. I mean, again, the idea is to inspire people to
21 actually go to these places, so they are trying to make it
22 romantic. Trying to make it seem attractive. They can seem
23 fun, yes.

24 Q And there's also inconsistency in the concept of -- I am
25 not talking over time in the concept of Mujahideen, Mujahideen

Kohlmann - cross/ Dratel

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1 who are alive in the United States and treated as heros during
2 the Afghan struggle against the Soviets and now it's sort of
3 on the other foot, it's fort of in the opposite context of how
4 the U.S. views the concept Mujahideen.

5 A The problem is that Mujahideen is not a proper noun.
6 It's used in a pejorative way. Back in the late 1980s when
7 someone would say Mujahideen they were referring to Afghan
8 Mujahideen fighting against the Soviet army. The Mujahideen
9 that we're talking about nowadays, for the most part, are not
10 Afghans, they're from other countries, and while they
11 certainly support the idea of Jihad again it is not a proper
12 noun.

13 Q But Mujahideen is not only applicable to Afghans as a
14 noun in any context. It doesn't apply only to Afghans?

15 A No, no, what I'm saying is during the late 1980s you were
16 asking about the sense, the meaning that it took on, right?

17 Q Didn't it also include non-Afghans, so, for example, Arab
18 fighters who went to -- and recruited by the United States in
19 Saudi Arabia to fight were also considered Mujahideen?

20 A That's true, yes.

21 Q Even with respect to the Chechnians, there's a committee
22 of United States persons, including people who worked in the
23 Regan administration who have been in the past through this
24 time period been taking the side of the Chechnian resistance
25 to the Soviets?

Kohlmann - cross/ Dratel

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1 A Which Chechnian resistance to the Soviets?

2 Q Chechnian resistance in general to Soviet occupation.

3 A Not Chechnian resistance in general. There are people
4 fact specific Chechnian resistance figures, but not the
5 Islamic army, the Caucasus.

6 Q I am not saying Islamic Army's the Caucasus. I'm saying
7 the notion that Chechnya should be a free and independent
8 state, separate from the Soviet Union or now Russia?

9 A The political view, yeah, sure.

10 Q They have not, and those people couldn't, including the
11 Regan administration officials, have not foresworn or
12 criticized even of the faction they have backed, they have not
13 necessarily criticized the armed struggle part of it, the
14 armed resistance part of it?

15 A Again, you are going to have to specify which part of the
16 armed resistance.

17 Q The part they support?

18 A I have never heard anyone in the Regan administration
19 endorsing bombings in Moscow or suicide bombings in Chechnya.
20 I mean I never heard anyone endorse that from the Regan
21 administration. If they have, I'm not aware of it.

22 Q You don't know the American Committee for Chechnya -- for
23 free Chechnya -- I'm sorry -- American Committee for Peace in
24 Chechnya didn't blame the Russians for Moscow bombing?

25 A Maybe they did but I don't believe that they ever

Kohlmann - cross/ Dratel

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1 endorsed it. I never -- I don't believe anyone from any U.S.
2 government administration past or present has ever endorsed
3 any of the tactics by the Islamic Army of the Caucasus.

4 Q That was not my question. The armed resistance, in other
5 words, military resistance to the Russian or Soviet Army in
6 Chechnya, U.S. officials, former Regan administration
7 officials have supported that, not the Islamic Army the
8 Caucasus, from a political standpoint?

9 A I'm asking. You're saying from a political standpoint,
10 right. You are not talking about from a military standpoint,
11 right?

12 Q They have not said they should lay down there arms and
13 accept Russian -- have they?

14 A Not that I'm aware of, no.

15 Q Now, with regard to what we were talking about before in
16 terms of the pressures or the conflicts that some young
17 Muslims, particularly those in the west, face in the context
18 of Jihad and message from Anwa al-Awlaki and Osama Bin Laden,
19 it is obvious from the number of hits on the Ben Laden and
20 Al-Khattab videos that there are a lot more people who view
21 those than wind up in terrorist organizations, correct?

22 A I think that is a fair statement, yes.

23 Q And regardless of what they might believe, correct, in
24 other words, if they have a political position or might be
25 against the United States, activity in a particular place, but

Kohlmann - redirect/ DuCharme

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1 it doesn't mean they wind up in a terrorist organization?

2 A Yes. I think it is fair to say that a significant number
3 of people who watch the videos don't wind up being terrorists.

4 Q Most of them get weeded out one way or another, just like
5 you said on your direct?

6 A It is case by case basis. There is not enough of these
7 people to constitute a statistical trends.

8 MR. DRATEL: Thank you, very much.

9 Nothing further.

10 THE COURT: Any redirect.

11 MR. DuCHARME: Just a few questions.

12 REDIRECT EXAMINATION.

13 BY MR. DuCHARME:

14 Q Mr. Kohlmann, before you heard in court today the Judge
15 mentioned one of the charges in this case, did you know what
16 any of the charges were in this case?

17 A No. Generally speaking in cases like this, unless I am
18 specifically asked to look at case documents, I don't. So I
19 don't even know what the charges are in this case.

20 Q Do you know what, if any, other evidence besides your own
21 testimony and the documents and materials you saw today, do
22 you know what any other evidence has been presented to this
23 jury?

24 A No, I don't.

25 MR. DuCHARME: No further questions.

1 Nothing further, Your Honor.

2 MR. DRATEL: No, Your Honor. Nothing further.

3 Your Honor.

4 THE COURT: Thank you, Mr. DuCharme.

5 You have a good day. You are excused.

6 Call your next witness.

7 MR. DuCHARME: Your Honor, before our next witness
8 we have three stipulations we would like to offer.

9 THE COURT: Okay. Go a right ahead.

10 MR. DuCHARME: The first stipulation is marked
11 Government Exhibit 11-01 and reads as follows:

12 If called as witness custodian of records from
13 e-mail service provider Microsoft Inc. would testify that
14 Government Exhibits 301 through 317 are true and correct
15 copies of records for e-mail account Abdurahman1988@Live. Com
16 which is registered to AbduRRahman Al-Albani.

17 Based on the proposed stipulated testimony these
18 records are admissible as business records.

19 The next paragraph says: If called as a witness a
20 custodian of records from e-mail service provider Microsoft
21 Inc. would testify that Government Exhibit 319 is a true and
22 correct copy of records for the e-mail account
23 AlbanianJoker@Hotmail.com which is registered to
24 Adem-Al-Albani. Based on the proposed stipulated testimony
25 these records are admissible as business records.

1 The next paragraph says: If called as a witness, a
2 custodian of records from e-mail service provider America
3 Online Inc. would testify that Government Exhibits 320-
4 through 320 and 322 through 330 are true and correct copies of
5 the records for the e-mail accounts Islamictawhid@aim.com
6 which is associated with the AOL Instant Messenger screen name
7 islamictawhid. Based on the proposed stipulated testimony
8 these records are admissible as business records.

9 The next paragraph says: If called as a witness, a
10 custodian of records from email service provider America
11 Online, Inc. would testify that Government Exhibit 331 is a
12 true and correct copy of records for the e-mail account
13 shutupnliisten@aol.com, which registered to Ramazan Kaziu.
14 Based on the proposed stipulated testimony, these records are
15 admissible as business records.

16 The last paragraph says this stipulation may be
17 received in evidence at trial, and at this time the government
18 offers Exhibit 1101 into evidence.

19 THE COURT: Received.

20 (Government Exhibit 1101 received and marked into
21 evidence)

22 MR. DuCHARME: Your Honor, with respect to those
23 particular exhibits mentioned, the defense has stipulated
24 authenticity but reserved objection on other grounds.

25 THE COURT: All right.

1 MR. DuCHARME: With respect to Government Exhibit
2 1102, this is a stipulation that reads as follows:

3 If called as a witness, custodian of records from
4 HASBC bank would testify that Government Exhibit 903 is a true
5 and correct copy of bank records for HSBC account number
6 662948670 in the names of Betim Kaziu and Ramazan Kaziu, for
7 the period of September 19, 2006 through October 13th, 2009.

8 Based on the foregoing stipulated testimony the
9 records contained in Government Exhibit 903 are admissible as
10 business records. This stipulation may be received in
11 evidence at trial.

12 This time the government offers Government
13 Exhibit 1102.

14 THE COURT: Received.

15 (Government Exhibit 1102 received and marked in
16 evidence)

17 MR. DuCHARME: Stipulation 1103 reads as follows:

18 If called as a witness custodian of records from
19 Airline Reporting Corporation Inc. would testify that
20 Government Exhibits 904 through 906 are true and correct
21 copies of records reflecting the travel histories of Betim
22 Kaziu, Sulejmah Hadzovic and Eldon Hadzovic. Based on the
23 foregoing stipulated testimony the records contained in the
24 Government Exhibit 904 through 906 are admissible as business
25 records.

Roddy - direct/ DuCharme

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1 If called as witness, a custodian of records from
2 Egypt Airlines would testify that Government Exhibit 901 is a
3 true and correct, partially copy of the flight manifest
4 obtained for Egypt Air Flight 986 on 19th, 2009. Based only
5 the foregoing stipulated testimony, the records contained in
6 Government Exhibit 901 are admissible as business records and
7 this stipulation may be received in evidence at trial.

8 At this time the government offers Exhibit 1103.

9 THE COURT: Received.

10 (Government Exhibit 1103 received and marked in
11 evidence)

12 MR. DuCHARME: Your Honor, at this time the
13 government calls Stefanie Roddy.

14 S T E F A N I E R O D D Y,

15 having been first duly sworn, was examined
16 and testified as follows:

17 MR. DuCHARME: May I inquire, Your Honor?

18 THE COURT: Yes.

19 DIRECT EXAMINATION

20 BY MR. DuCHARME:

21 Q What do you do for a living?

22 A I'm a special agent with the Federal Bureau of
23 Investigation.

24 Q How long have you been a special agent with the FBI?

25 A Little over six years.

Roddy - direct/ DuCharme

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1 Q Generally, what types of training have you received as
2 FBI agent?

3 A I received four and a half months of training at the FBI
4 Training Academy in Quantico, Virginia. Some of the topics
5 that we studied there were interviewing, searches, and
6 seizures other.

7 Q Do you have any degrees?

8 A I do. I have a Bachelor of Arts in political science and
9 I have law degree.

10 Q Where are you currently assigned, Agent Roddy?

11 A I am currently assigned to the New York office of the
12 FBI. I am part of the Joint Terrorism Task Force or JTTF and
13 my squad is called CT6.

14 Q And what does CT6 cover?

15 A The Horn of Africa.

16 Q What is that?

17 A The horn of Africa includes such countries as Somalia,
18 Kenya and Uganda.

19 Q What are your general duties and responsibilities as an
20 agent on CT6?

21 A Working with domestic-international law enforcement
22 partners to investigate terrorism matters in the Horn of
23 Africa.

24 Q How long have you been on the Horn of Africa squad?

25 A Little over a year.

Roddy - direct/ DuCharme

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1 Q Where were you signed before then?

2 A I was in assigned to a squad called CT3.

3 Q What is CT3 cover?

4 A CT3 covered terrorism matters in the Balkans.

5 Q What countries did that include?

6 A Some of the countries in the Balkans are Macedonia,
7 Albania, Bosnia, Kosovo.

8 Q Directing your attention, Agent Roddy, to August of 2009,
9 where were you assigned then?

10 A I was assigned to the squad CT3.

11 Q And specifically directing your attention to the evening
12 of August 27th, 2009, where were you at that time?

13 A I was in Prizren, Kosovo.

14 Q What were you doing?

15 A Me and my colleagues were accompanying Kosovo police
16 service to a residence which they had earlier acquired a
17 search warrant for. It was a ten story apartment building. We
18 arrived at the location to find that the Kosovo Police Service
19 had secure the location and we entered the apartment with the
20 Kosovo Police Service and they began to systematically search
21 that residence.

22 Q What was your role in the search?

23 A I was there observe. I was a witness.

24 Q And what happened?

25 A The Kosovo Police Service were able to catalogue various

Roddy - direct/ DuCharme

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1 items into evidence, things they had found in the apartment,
2 including a digital camera. There were various documents,
3 U.S. passport of the defendant, SIM card for a phone and also
4 a firearms catalogue.

5 Q Were you present when those items were seized by the KPS?

6 A I was.

7 Q I'm showing you what is in evidence as Government Exhibit
8 701. I'LL put this on the Elmo. Can you see that?

9 A Yes.

10 Q What is that?

11 A That is THE digital camera that was seized from the
12 defendant's apartment that night.

13 Q Showing you what's in evidence that is Government
14 Exhibit 713-B, do you recognize that?

15 A Yes.

16 Q What is that?

17 A This is a firearm's catalogue that was found at the
18 defendant's apartment.

19 Q Showing you what's in evidence as 713-A?

20 A Yes.

21 Q What's that?

22 A The same catalogue.

23 Q What type of items is that a catalogue for?

24 A If you looked down at the corner it says the Benelli
25 which a brand of shotgun.

Roddy - direct/ DuCharme

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1 Q Do you have any personal experience with Benelli
2 shotguns?

3 A I do.

4 Q What type of products does Benelli make?

5 A I am personally familiar with a Benelli super M1 90
6 semi-automatic 12-gauge shotgun.

7 Q Now, I'm showing what's been marked for identification as
8 Government Exhibits 701-A through C --

9 MR. DuCHARME: This is just for identification,
10 Your Honor --

11 Q (Cont'd): Can you see that?

12 A Yes.

13 Q Do you recognize that?

14 A I do.

15 Q What is it?

16 A It's a CD containing video clips from the digital camera.

17 Q Did you, yourself, have an opportunity to inspect the
18 digital camera that is in evidence as Government Exhibit 701?

19 A Yes.

20 Q Did you download certain files onto this disk?

21 A Yes.

22 Q How can you tell this is the same disk?

23 A My initials are on it.

24 MR. DuCHARME: Your Honor, at this time the
25 government offers 701-A through C.

Roddy - direct/ DuCharme

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1 MR. STEINGLASS: No objection.

2 THE COURT: Received.

3 (Government Exhibits 701-A through C received and
4 marked in evidence)

5 Q Are you familiar with the sound of defendant's voice
6 Agent Roddy?

7 A Yes, I am.

8 Q Very generally, what files are contained in government
9 Exhibits 701 A through C?

10 A They are home video clips containing the images of the
11 defendant.

12 MR. DuCHARME: If we can have the laptop, Your
13 Honor, the government would like to publish at this time what
14 is in evidence as Government Exhibit 701-A, video file, will
15 be extracted from the digital camera.

16 THE COURT: All right.

17 (Tape played); (Tape stopped)

18 MR. DuCHARME: The volume is pretty low. Do we have
19 a way of raising it.

20 THE COURT: I'm doing I would now.

21 MR. DuCHARME: Thank you.

22 (Tape played); (Tape stopped)

23 Q Now, Agent Roddy, have you been inside this apartment
24 before?

25 A Yes, I have.

Roddy - direct/ DuCharme

822

1 Q Which apartment is that?

2 A This is the apartment that was searched that we were
3 referring to earlier.

4 (Tape continued); (Tape stopped)

5 Q Now, you said that you were familiar with the defendant's
6 voice, Agent Roddy?

7 A Yes.

8 Q And with respect to this next clip, generally, what are
9 we going to see in 701-B?

10 A The defendant and others individuals riding in a vehicle.

11 Q If you can give us some indication if you at some point
12 you recognize the defendant's voice?

13 A Okay.

14 MR. DuCHARME: Could we dim the lights or we risk
15 losing the audio?

16 THE COURT: Both, but I can get the audio back.

17 MR. DuCHARME: Thank you, Your Honor.

18 (Tape played); (Tape stopped)

19 A That is the defendant that said I'm not recording you.

20 (Tape continued); (Tape stopped)

21 MR. DuCHARME: And finally, Your Honor, we will
22 publish 701-C.

23 (Tape played); (Tape stopped)

24 MR. DuCHARME: Your Honor, if I could have the Elmo
25 back, just for the witness.

Roddy - direct/ DuCharme

823

1 Q Agent Roddy, were you also able to extract other images
2 from the camera that was seized from the defendant's
3 apartment?

4 A Yes.

5 Q And I'm showing you what's been marked for identification
6 as Government Exhibits 701-D, 701-E, 701-F, 701-G, 701-H,
7 701-I, 701-J, 701-K, 701-L, 701-M, 701-O.

8 701-M. Here is 701-M. Do you recognize those?

9 A Yes.

10 Q What are those?

11 A They're images that were taken off the digital camera.

12 Q Do you have an understanding whether or not these are
13 actual photographs taken with the camera?

14 A They are not photographs; they are just images.

15 Q Are these true and correct copies, files that?

16 A Yes.

17 MR. DuCHARME: At this time the government offers
18 701-D through M.

19 MR. STEINGLASS: No objection.

20 (Government Exhibits 701-D through M received and
21 marked in evidence)

22 Q For purposes of the written record, Agent Roddy.

23 Can you describe generally what each of these images
24 is as I publish them?

25 A Of course.

Roddy - direct/ DuCharme

824

1 This is a map of the middle east.

2 Q Do you see -- you mentioned earlier something you
3 referred to as the Horn of Africa.

4 A Yes.

5 Q Is that depicted anywhere on this?

6 A Yes, where Somalia is.

7 Q Where Somalia is.

8 A It's five men standing on a mountain.

9 Q 701-F?

10 A There are three individuals on horseback, and an
11 individual on foot. They're carrying swords and bows and
12 arrows.

13 Q 701-G.

14 A This is another map of the middle east.

15 Q 701-H.

16 A It's an individual on horseback.

17 Q 701-I.

18 A It's an image that reads: Obsession Radical Islam's War
19 Against the West at the top.

20 Q 701-J.

21 A It a group of males, some of which are carrying guns.

22 Q 701-K.

23 A It contains Arabic writing at the top AK 4 in the middle
24 and the words Support Our Troops on the bottom.

25 Q 701-L.

Roddy - direct/ DuCharme

825

1 A It contains an individual carrying a sword in one hand
2 and black flag in the other which reads: To the brothers and
3 sisters who live, love and fight in the name of Allah.

4 Q 701-M.

5 A It is a group of individuals on horseback carrying swords
6 and there's a verse the last person on the bottom.

7 Q And finally 701-O.

8 A Entitled the Map of the United States of Islam.

9 MR. DuCHARME: Thank you.

10 Q Now, Agent Roddy, after the search of the apartment in
11 Prizren, Kosovo where the camera was recovered, were you
12 present for another search in Kosovo?

13 A Yes, I was.

14 Q When did that search take place?

15 A Later on that evening. Same evening.

16 Q Where did this take place?

17 A In Prizren, Kosovo.

18 Q More specifically?

19 A We --my colleagues and myself also were able to accompany
20 the Kosovo Police Service who had earlier obtained a search
21 warrant for a second. It was a compound or family where a
22 family lived, and we are were able to accompany them to the
23 second location where they had secured the residence, and we
24 were able to enter with them, and also be present while they
25 systematically searched and seized evidence at that second

Roddy - direct/ DuCharme

826

1 location.

2 Q And what was some of the evidence that was seized there?

3 A There was a laptop computer, a Adidas backpack. Also, a
4 green slip of paper containing e-mail address
5 Abdurahman1988@Live.com.

6 Q And were you present when those were seized by the KPF?

7 A Yes.

8 Q What happened to those items?

9 A They were entered into evidence and they were shared with
10 the FBI.

11 Q And was the defendant arrested at some point in
12 connection with this case, Agent Roddy?

13 A Yes, he was.

14 Q How did that come about, what happened?

15 A Initially, he was arrested by the Kosovo Police Service,
16 but later on we -- the FBI was able to obtain an arrest
17 warrant for the defendant, and myself and my colleagues flew
18 to Kosovo and were able to rendezvous with the Kosovo Police
19 Service, and placed the defendant under arrest and bring him
20 back to the United States.

21 Q Agent Roddy, after you got back to the New York did you
22 continue to investigate the case?

23 A Yes.

24 MR. STEINGLASS: Objection, Your Honor.

25 THE COURT: Overruled.

Roddy - direct/ DuCharme

827

1 Q Generally, what are some of the things that you did?

2 A Some of the things were issuing subpoenas for various
3 records, as well as executing search warrants, e-mail accounts
4 and other things like that.

5 Q Did you go through the laptop computer at some point?

6 A Yes.

7 Q Showing you what are in evidence as Government Exhibits
8 801 through 809 and 811 -- I'll publish them one at a time so
9 you can see them on the Elmo -- 801, 802, 803, 804, 805, 806,
10 807, 808, 809, and 811. Are you familiar with the contents of
11 these CDs in evidence?

12 A Yes.

13 Q Where did the materials that are on these CDs come from?

14 A From the defendant's laptop.

15 Q Now, just for the witness, Your Honor, I'm showing you,
16 Agent Roddy, what's been marked for identification as
17 Government Exhibit 903.

18 Do you recognize those.

19 A Yes, I do.

20 Q What were those or what is that -- do you see that?

21 A I can see part of it.

22 Q All right. Let me -- can you see that better?

23 A Yes, thank you.

24 Q Who is that?

25 A This is a HSBC checking statement for account user Betim

Roddy - direct/ DuCharme

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1 Kaziu. It is dated January 16, 2009 through February 13th,
2 2009.

3 MR. DuCHARME: Your Honor, the government offers
4 903.

5 MR. STEINGLASS: No objection.

6 THE COURT: Received.

7 (Government Exhibit 903 received and marked in
8 evidence)

9 Q And HSBC, for this first page that's stamped 948 at the
10 bottom, in what period of time does this cover, can you tell?

11 A Yes. January 16, 2009 to February 13, 2009.

12 Q Did you go through the defendant's bank account records?

13 A I did.

14 Q Were these among them?

15 A Yes, it was.

16 Q Did you note anything significant about this particular
17 record?

18 A Yes. On this particular record there are two purchases
19 made on January 19th, 2009.

20 Q Could you please mark the screen.

21 A I'm sorry. I'm sorry.

22 Q So we know where you are looking at?

23 A So there's one here, there's one here. There's a purchase
24 made on January 19th, 2009 from Egypt Air in the amount of
25 \$548.60 each?

Roddy - direct/ DuCharme

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1 Q Turning to the second page of Government Exhibit 903,
2 just clear the screen --

3 A That is also an HSBC checking account statement for
4 Betim Kaziu.

5 Q Did you notice any purchases on this particular
6 statement?

7 A Yes, there's one.

8 There's a purchase made on February 15, 2009 from
9 Best Buy in the amount \$704.43.

10 Q I'm sorry. You said already and I forgot. On what date?

11 A That one says it was made on February 15th, posted on
12 February 17th of 2009.

13 Q Now, I'm showing you what's been marked for
14 identification as Government Exhibits 901. Can you see that
15 okay?

16 A Yes.

17 Q What's that?

18 A It's a passenger manifest from Egypt Air.

19 MR. DuCHARME: Your Honor, at this time the
20 government offers Exhibit 901.

21 MR. STEINGLASS: No objection, Your Honor.

22 THE COURT: Received.

23 (Government Exhibit 901 received and marked in
24 evidence)

25 Q Directing your attention, Agent Roddy, to the page

Roddy - direct/ DuCharme

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1 stamped 341 at the bottom. Did you have an opportunity to
2 review this manifest record?

3 A Yes, I did.

4 Q And do you recognize any of the names -- I will zoom in a
5 little bit --

6 A -- yes --

7 Q -- do you recognize any of those names?

8 A Yes.

9 Q Which one?

10 A Sal lieu may has have Vic.

11 Q Can you indicate at that time with our finger?

12 A Yes. Sulejmah Hadzovich.

13 Q Any other information?

14 A It also says he was in seat 25 G.

15 Q If I can turn your attention now to page marked 345, do
16 you recognize any name on that page?

17 A Yes.

18 Q Which ones?

19 A Betim Kaziu is right here.

20 Q Any other information with respect to passenger Betim
21 Kaziu?

22 A He was seated in seat 25 F.

23 Q Showing you what's been marked for identification
24 Government Exhibit 904, 905, 906. I'll show them to you, one
25 after the next. Can you see 904?

Roddy - direct/ DuCharme

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1 A Yes.

2 Q How about 905?

3 A Yes.

4 Q 906?

5 A Yes.

6 Q What are those?

7 A Flight reservation records for three different
8 individuals.

9 MR. DuCHARME: The government offers 904 through
10 906.

11 MR. STEINGLASS: No objection.

12 THE COURT: Received.

13 (Government Exhibits 904 through 906 received and
14 marked in evidence)

15 Q Starting with 904, Agent Roddy, can you read that?

16 A Yes.

17 Q Can you read that?

18 MR. DuCHARME: May I approach, Your Honor?

19 THE COURT: Yes.

20 Q I am handing you what are in evidence Government
21 Exhibits 904 through 906, and with respect to 904, Agent
22 Roddy, what is that?

23 A It is a flight reservation record for Betim Kaziu.

24 Q What information is contained on that flight record?

25 A There are multiple flights. For example, there's a

Roddy - direct/ DuCharme

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1 flight that appears to have been issued on June 23rd, 2008 to
2 passenger Betim Kaziu leaving on July 4th, 2008 and traveling
3 from JFK to Jeddah, Saudi Arabia and also, a record on the
4 same date for the same passenger returning on August 14th,
5 2008 from Jeddah, Saudi Arabia to JFK, and finally, there's an
6 issue date of January 19th, 2009 for passenger Betim Kaziu
7 leaving on February 19th, 2009 and travelling from JFK to
8 Cairo, Egypt.

9 Q With respect to Government Exhibit 905 in evidence --

10 A -- yes --

11 Q -- what is that?

12 A This is a flight reservation record for Eldon Hadzovic.

13 Q What does that indicate?

14 A There is a flight issued on June 18th, 2009 for Eldon
15 Hadzovic leaving on July 11th, 2009 and travelling from JFK to
16 Frankfurt, Germany. Then connecting in Frankfurt, Germany on
17 the following day and travelling to Poderosa, Montenegro, and
18 then there's a return trip issued on the same date for the
19 same passenger on August 8th, 2009 travelling from Poderosa,
20 Montenegro to Frankfurt Germany, and Frankfurt Germany to JFK.

21 Q Finally, with respect to Government Exhibit 906 in
22 evidence, what do those records indicate?

23 A These are flight reservations for Sulejmah Hadzovic and
24 they contain a flight issued on June 23rd, 2008 departing on
25 July 24th, 2008, travelling from JFK to Jeddah, Saudi Arabia

Roddy - direct/ DuCharme

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1 and returning on August 2008 from Jeddah, Saudi Arabia to JFK.

2 There is also an issue date of January 19th, 2009,
3 for the same passenger leaving on February 19th, 2009 and
4 travelling from JFK to Cairo, Egypt.

5 And finally, on May 21st, 2009 flight reservation
6 was issued for Sulejmah Hadzovic travelling on June 8th, 2009
7 from Cairo, Istanbul, Turkey, and connecting in Istanbul,
8 Turkey to Pristina, Kosovo, and then returning on July 20th,
9 2009 from Pristina, Kosovo to Istanbul, Turkey, connecting in
10 Istanbul, Turkey to Cairo, Egypt.

11 Q Thank you.

12 Agent Roddy, I am showing you what is in evidence
13 now on the Elmo as Government Exhibit 716.

14 Do you recognize that?

15 A Yes.

16 Q What is that?

17 A It's an examination of a report for a SIM, the SIM card
18 that was at the defendant's apartment.

19 Q The same SIM card that you described earlier?

20 A Yes.

21 Q Have you reviewed the SIM card report in connection with
22 this investigation?

23 A I have.

24 Q What is a SIM card?

25 A A SIM card is a small card that is inside -- fits inside

Roddy - direct/ DuCharme

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1 a cell phone and data can be saved to it.

2 Q The SIM card we are talking about, did you see it inside
3 the cell phone or was it separate and apart from the cell
4 phone?

5 A Separate and part from the cell phone.

6 Q Where specifically did you see that SIM card?

7 A It was sitting in kind of like a glass plate in the
8 defendant's apartment.

9 Q Have you reviewed the contents of this SIM card report?

10 A I have.

11 Q And directing your attention to page marked 310, in
12 connection with your investigation did you notice anything of
13 significance on page three?

14 A Yes. The first contact is Armend Home.

15 Q And when you say, "contact," did you have an
16 understanding of what SIM contacts refers to?

17 A It is my understanding that this would be numbers that
18 would have been saved to the SIM card itself -- contact
19 numbers that would have been saved to the SIM cards.

20 Q Directing your attention to page four, can you read that
21 okay or do we need to blow it up?

22 A I can see it.

23 Q Anything on this page?

24 A At the very bottom there is also a number for Armend.

25 Q Being five?

Roddy - direct/ DuCharme

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1 A There's a number for Fadil.

2 Q And page six?

3 A There's a number for Sayf Udin, and also, for
4 Ahmed Al-Somali.

5 Q And finally, on page seven.

6 A There's a number at the top for Murad, and there's a
7 another number for Ahmed.

8 Q Now, Agent Roddy, were you also involved in executing
9 search warrants on e-mail accounts in this case?

10 A I was.

11 Q What were some of the e-mail accounts that the FBI
12 executed search warrants on?

13 A Some of them were Abdurahman1988@live.com,
14 Albanianjoker@hotmail.com, and shutupnliisten@aol.com.

15 MR. DuCHARME: May I have one moment and we are
16 almost done.

17 (Pause in the proceeding)

18 Q And with respect to -- I'm going to show some documents
19 that have been marked for identification, Agent Roddy.

20 There's a 301, do you see that?

21 A I can see that.

22 Q 302.

23 A Yes.

24 Q 303.

25 A Yes.

Roddy - direct/ DuCharme

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1 Q 304.

2 A Yes.

3 Q 305.

4 A Yes.

5 Q 306.

6 A Yes.

7 Q 307.

8 A Yes.

9 Q 308.

10 A Yes.

11 Q 309?

12 A Yes.

13 Q 315.

14 A Yes.

15 Q 319.

16 A Yes.

17 Q 331.

18 A Yes.

19 Q Are those copies of e-mails that were part of the search
20 warrant returns that the FBI executed?

21 A Yes.

22 MR. DuCHARME: Your Honor, at this time the
23 government offers Government Exhibits 301 through 309, 315 and
24 319 and 331.

25 MR. STEINGLASS: Objection. May I have a moment with

Roddy - direct/ DuCharme

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1 counsel?

2 THE COURT: Yes.

3 (Mr. DuCharme and Mr. Steinglass conferred)

4 MR. STEINGLASS: No objection, Your Honor.

5 THE COURT: Received.

6 (Government Exhibits Government Exhibits 301
7 through 309, 315 and 319 and 331 received and marked in
8 evidence)

9 Q In the first one I'm showing you, Agent Roddy, can you
10 see that one, okay?

11 A Yes.

12 Q And what's that?

13 A It's a copy of an e-mail from a search warrant for
14 abdurahman1988@live.com from that same e-mail address to
15 Sayfullah Hadzovic Safullah@ aim dated August 5th, 2009. It
16 contains some text.

17 Q Can you read just maybe the first two sentences of the
18 text please.

19 A Yes (reading): It has been authentically narrated from
20 our messenger the best martyrs are those who fight in the
21 first line.

22 Q Thank you.

23 Government Exhibit 302, what is that?

24 A It is a copy of an e-mail from Abdurraham Al-Albani
25 abdurahman1988@live.com to e-mail address alyazedy@live.com

Roddy - direct/ DuCharme

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1 dated August 5th, 2009, and it contains the same text as the
2 previous e-mail?

3 Q 303.

4 A The copy of e-mail from Abdurrahman Al-Albani
5 abdurahman1988@live.com from Adem Al-Albani
6 albanianjoker@hotmail.com dated August 24th, 2009.

7 Q 304.

8 A It's a copy of an e-mail from Abdurrahman Al-Albani
9 abdurahman1988@live.com to sayful_islam@live.com dated August
10 24, 2009. It contains some text.

11 Q Can you read that please.

12 A Of the course (reading):

13 They say he who believes in Allah is a terrorist. He
14 who when the call to Jihad is made doesn't snore.

15 When the cry of Muslim women and children is made
16 doesn't wait no more.

17 Sharp is his spear. He's ready to strike.

18 For the hur al-ayn he will delight.

19 In the green birds his soul will fly.

20 In jannah with wine and thrones raised high.

21 In front of Allah leaking in blood he will be asked
22 why.

23 For you my rubb I wanted to die.

24 And it is signed, Betim Kaziu.

25 Q 305.

Roddy - direct/ DuCharme

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1 A Yes. A portion of the e-mail reading (reading):

2 Aselaamu 'aleykum. Yo I need to talk to you, but
3 I'm busy to on the net. I waited for you like half hour but
4 here I got a new phone. If you can call it see if it works.

5 Q 306.

6 A It's a copy of an e-mail from Abdurrahman Al-Albani using
7 abdurahman1988@live.com to islamictawhid@aim.com. It is June
8 24, 2009.

9 Q Can you just read the first two sentences?

10 A Sure (reading):

11 Aselaamu 'Aleykum

12 Allah is the one who forgives the sin, so if it's a
13 sin you're worried about return to Allah.

14 Q 308.

15 A This is a document retrieved from the search warrant
16 returned for Abdurahman1988@live.com. It's entitled the Book
17 of Jihad.

18 Q 309.

19 A Yes. This is a document also retrieved from the search
20 warrant from Abdurahman1988@live.com. At the top it states:
21 The bullet not the ballot. Full scale Jihad is the only
22 solution to the occupation of Palestine by the Jews in Israel.

23 Q 315, what is this?

24 A This is user information for the account
25 Abdurahman1988@live.com. It contains first name AbduRRahman.

Roddy - direct/ DuCharme

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1 The account -- this is first name. The last name is Al-Albani
2 the state listed is New York, the zip code is 11204, which is
3 Brooklyn. It has a registered from IP address right here which
4 also results to Brooklyn, New York, and it has an alternate
5 e-mail of shutupnliisten@aol.com.

6 Q 319.

7 A Yes, this a copy of an e-mail from the search warrant for
8 Albanianjoker@hotmail.com. It's from Adem Al-Albani
9 albanianjoker@hotmail.com to abdurahman1988@live.com. It's
10 entitled Fighting Against Government Armies in the Muslim
11 World. Imam Anwar Awlaki.

12 Q And 331.

13 A This is a copy of an e-mail from Jamie Noto
14 Brooklynbjj2@yahoo.com to shutupnliisten@aol.com and the
15 subject is Hi Betim.

16 Q And finally, what is this, Government Exhibit 307?

17 A It's a copy of an e-mail from Betim Kaziu to
18 abdurahman1988@live.com to albanianjoker@hotmail.com dated May
19 27, 2009.

20 MR. DuCHARME: Your Honor, this will be I think my
21 last question. If I may approach, I would like to ask the
22 witness to read -- this one is a little hard to read from
23 there.

24 THE COURT: Yes.

25 Q Agent Roddy, could you please read from Government

Roddy - direct/ DuCharme

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1 Exhibit 307.

2 A It begins with the Islamic greeting and then states
3 (reading):

4 We got a little problem here in Egypt. The army is
5 in the neighborhood arresting brothers from all over. They're
6 raiding homes and all that.

7 Innocent Muslims are being taken in and these cops
8 are literally oppressing brothers, and I just wanted to give
9 you my name and password for MSN, so if I get caught you can
10 talk to my fam and play it off like you're me. So if I get out
11 after some time they won't be worried, but if a lot of time
12 passes, then I don't know what you can do. Think of something.
13 You're a smart kid. My screen name is abdurahman1988@live.com.
14 I think, and my pass word is ana1988. You can leave them
15 messages from time to time and say I've been busy and don't
16 have time, or after a while say we got no internet.

17 I ask Allah subhana wa ta'la to not test us with
18 more than we can bear, and I ask that he keeps us firm. I ask
19 him to forgive our sins, past and present, and bring us
20 together into jannatul firdaus and I ask him to grant us the
21 best of deaths and as Muslims and to forgive our past and
22 present sins. Ameen, but inshaallah everything will be okay.

23 Inshaallah this all passes and we'll go on with our
24 daily lives. Lol and this is also a lesson because now in this
25 situation you try your best to fear Allah and hope for his

Roddy - direct/ DuCharme

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1 rahma, but when there's no trials facing us we just ignored
2 worship.

3 Well, inshaallah. I'll talk to you later.

4 And one more thing. Tell my parents that when this
5 occurred I wasn't afraid, and that Allah, he tests his
6 servants, and tells them to fear Allah because they are not
7 safe from any calamity except by his will, and he can take all
8 their riches and they're not safe from his punishment, unless
9 they turn to him sincerely and that if Allah wills, we meet in
10 jannah if they obey him, and if they obey him and that the
11 dunya is not for us, and Allah prepared for those who believe
12 in him jannah where therein they shall never grieve.

13 Tell my brother I love him for the sake of Allah and
14 to fear Allah and to be patient, and if so, Allah will bring
15 us together in jannah.

16 Tell my sisters that they should fear Allah, and the
17 hellfire that is prepared for the Zalimun, those who don't
18 follow his guidance and if they really claim to love me, then
19 they should love Allah even more because I'm nothing but his
20 creation, and that everyone is destined to die or whatever. So
21 they should also obey him and we can Inshaallah if Allah wills
22 to bring us together into Janna.

23 Tell my father the same thing and that without this
24 deen he's nothing and will never prosper.

25 And tell my mother I love her for Allah's sake, and

1 I can't explain how much I love her, but we can't be together
2 if either one of us goes to jahannam. Only those who believe
3 in Allah and act upon his guidance will meet in the afterlife
4 and the dunya is nothing but play and amusement and it goes by
5 in a blink of an eye.

6 This will be funny if I talk to you again because
7 you'll probably tell me I told you so, and in America is
8 better but QADR of Allah. LOL.

9 Love you and Amal and all Muslims for the reason
10 that ya'll make sujood to Allah and if it wasn't for that we
11 wouldn't be together, and you guys fear Allah where ever you
12 may be and rush for good deeds when you can because there will
13 be a time where it's too late and the deeds only bring you
14 closer to Allah, so why not do it?

15 Do you want to get closer to Allah.

16 Aselamu 'aleykum and if I talk to you again this
17 letter will still be for the future cause I spent like 15
18 minutes on it. Lol.

19 MR. DuCHARME: No further questions.

20 THE COURT: All right. Let's break for the long
21 weekend. Have a nice weekend. Put the case out of your
22 minds. Make sure you avoid any contact with the case. Don't
23 let anybody talk to you about it. If there happens to be any
24 article or news report about it, make sure you avert your
25 eyes. Get someone else to preserve it for you, if you want,

1 until the end of the case, but make sure you don't read
2 anything about the case, talk to anybody about the case, no
3 blogging about the case, no tweeting about the case, no
4 nothing about the case. Put it out of your minds. You've got
5 a long weekend. Please enjoy the weekend. We will resume at
6 9:30 on Tuesday morning and I look forward to seeing you then.
7 Have a nice afternoon and enjoy the weekend. All rise.

8 (Whereupon, the jury exited) will.

9 THE COURT: You can step down.

10 (Please be seated everyone)

11 I don't think we've got any proposed jury charge
12 from the defense side.

13 MR. DRATEL: We will finish that over the weekend and
14 get it to you soon.

15 THE COURT: As soon as you can.

16 MR. DRATEL: Yes.

17 MR. DuCHARME: We have one or two stipulations,
18 then we expect to rest, Your Honor, and then we expect to
19 rest.

20 THE COURT: So you will be set for the defense case
21 on Tuesday?

22 MR. STERN: That is the question I have for you in
23 part. We have to get those DVDs edited in conformity --

24 THE COURT: Yes, I have some homework to do.

25 MR. STERN: So as soon we as we get those we will

1 get them out to be edited, I think. I guess we can get to
2 them -- I'm looking at Ms. Ulerio.

3 MS. ULERIO: We might be able to have them by
4 Tuesday, but I am not sure if it will be possible over the
5 long weekend.

6 THE COURT: We have to have them by Tuesday. What
7 are the mechanics of this? I am going to rule on objections
8 and then --

9 MR. STERN: The mechanics are we get the transcript
10 back from you and things are crossed out or however you choose
11 to do it and we send that to them, along with the DVD, and
12 they physically -- although I have no idea how, edit it out
13 the portions that are ruled inadmissible. The actual
14 mechanics I don't know, but that is the general idea.

15 THE COURT: But even if we don't have that, we can't
16 skip over the sustained objections part?

17 MR. STERN: I guess it depends how it comes up. If
18 there are single lines I think it is quite difficult. If there
19 are chunks it is much easier but --

20 THE COURT: I'll get to it but I am just curious
21 about the mechanics of it.

22 MR. STERN: I am the wrong person to ask, I can
23 barely ask use a cell phone so I'm not a great person to ask.

24 THE COURT: Right, but aren't there when you have
25 these videotaped depositions, like, there are counter numbers

1 or times, right, so if I were to knock out because I
2 sustained an objection, you know, from 21 minutes and ten
3 second to 24 minutes and 40 seconds, is it possible in the
4 playing of the unedited DVD to just advance from point one to
5 point two and that way the jury skips it?

6 MS. ULERIO: Yes, if it is a big chunk it would be
7 easier. I can identify when it starts and when it ends.

8 THE COURT: That is pretty much what we are talking
9 about but you.

10 MS. ULERIO: But if it is one word --

11 THE COURT: I am not going to be taking out a word.

12 MS. ULERIO: Okay.

13 THE COURT: So I'm going to do my best to get the
14 work done. I have to make sure I have everything and I'll try
15 to get it to you -- we can create a new DVD but you have not
16 disabused me of the instinct that we can work from a full DVD
17 and just --

18 MR. STERN: It is more cumbersome but if we have
19 to, we can.

20 MR. STEINGLASS: If I could? Maybe I won't succeed
21 but in my own experience working with these kinds of things it
22 is very -- you have to stop at the right place and then to
23 find the next place to pick up and to do that in front of the
24 jury and we are likely to make a mistake or have to take a
25 break and delay the process. So, hopefully, we can get the

1 edited type of DVD which will all do smoothly.

2 THE COURT: You should get my 13 year old in here,
3 really.

4 MR. DRATEL: Your Honor, at this point the government
5 doesn't intend, obviously, to offer in its case-in-chief, but
6 depending on how you rule and the other witnesses what they
7 seek to introduce during their defense case, may change our
8 approach with --

9 THE COURT: The names of your witnesses again? Sorry
10 to interrupt you, but the names?

11 MR. STERN: Mr. Kalenderi, Bharam Berisha, Hamedin
12 Berisha. The government knows precisely what we intend to
13 introduce. We have no witnesses who aren't already on the
14 tape. So I am not sure what to change. If they want to use
15 that we will deal with it. If they don't we won't, but it is
16 not entirely forthcoming to say they will see what we are
17 going to do. In this case, unlike most cases, they know
18 exactly what the testimony will be since they were present for
19 it and it's on tape.

20 MR. ARIAIL: I think the issue, Your Honor, is what
21 comes in.

22 THE COURT: He said depending on my rulings.

23 MR. STERN: Maybe they can give us a clue about
24 that.

25 THE COURT: My rulings by open doors.

1 MR. STERN: I am not sure what will happen, taking
2 things out opens doors is beyond me but okay.

3 THE COURT: I am used to hearing that there might be
4 certain consequences to my rulings. I just ignore it. No
5 offense. I appreciate you saying that. All right. So we've
6 got those.

7 Anything else to your defense case?

8 MR. STERN: We have the rule 15 videos and we have
9 videos that were found on his computer or camera, I think.
10 The government will correct me if I am. Wrong we will have a
11 stipulation that that is where they are found, and so I am not
12 sure of the exact number. They are quite brief. They're
13 mostly about the same length as the coastline video that we
14 just saw. So a minute a minute and a half. Something like
15 that.

16 MR. ARIAIL: I am not exactly sure which videos
17 defense is talking about, but we need to take a look at those.
18 I am fairly confident the government is going to have
19 objections in terms of relevance and other reasons.

20 MR. STERN: I will tell you right now, so we can
21 resolve that, there's a video of him pretending to be a
22 weatherman, a video of him pretending to be a mafia, a video
23 of him pretending to be a drug dealer, a video addressed by
24 Bharam Berisha in his rule 15 deposition -- I don't want to
25 characterize it -- as playing with an air rifle, and a video

1 of him using special effects on the -- somehow on the camera
2 to play around with children, that is, they -- just images
3 basically of him messing around with children.

4 (Continued on next page)

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1 THE COURT: I see.

2 MR. STERN: That is what they are. It's our
3 position that they put in context what they characterize as a
4 martyr video and we characterize as another of his role
5 playing videos; that is it is something he does routinely with
6 his camera.

7 Since they were found on the same -- I don't
8 actually know if they were found in the camera or computer but
9 they were taken with a camera. It seems to me they are
10 admissible. If they are not, we should discuss it now so we
11 know.

12 MR. ARIAIL: Your Honor, the main video that I think
13 is irrelevant is the last one, the one I think they are
14 describing -- I'm not sure what they are describing, something
15 about mirrors and playing with children.

16 I'm not sure what the relevance of that is, and a
17 lot of what they seem to be doing is introducing specific acts
18 that the defendant may have undertaken while he was in Kosovo
19 to somehow show he's a good kid or he's not actually trying to
20 blow something up at that very moment.

21 I think what they are trying to do is put in
22 character evidence through these specific videos in large part
23 and I think this there are a couple of Second Circuit cases
24 that address that issue in terms of putting in specific acts
25 of conduct to show good character. I don't know if that is

1 appropriate. So I object on relevance and on that ground as
2 well.

3 MR. STERN: I think the government --

4 THE COURT: Just a second. The role playing one
5 strikes me as plainly relevant. It would support what would
6 be a defense argument, I take it, that it makes it more likely
7 than not that in the martyr video he wasn't truly intending to
8 become a martyr. So the relevance objection to those -- your
9 objection to those are overruled.

10 I don't understand the special effects thing.

11 MR. STERN: We can live without that.

12 THE COURT: The other ones is role playing. You
13 need to be heard any further?

14 MR. ARIAIL: No, your Honor.

15 THE COURT: Does the defendant presently intend to
16 testify?

17 MR. STERN: No. We are going to meet with him right
18 after court today, but as he sits here now does not.

19 THE COURT: So it sounds like we should plan on
20 summing up maybe as early as Wednesday.

21 MR. STERN: Judge, Mr. Kaziu would like to talk to
22 you again without the government here about issues involving
23 his counsel.

24 THE COURT: Again? All right.

25 I will let him.

1 (Pages 853 through 860 are sealed, by Order of the
2 Court.)

3 (Continued on next page.)
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1 (Open court.)

2 THE COURT: Will one of you let the prosecutor's
3 know that we have adjourned for the weekend.

4 (Trial continued to July 5, 2011, at 9:30 am.)

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I N D E X

W I T N E S S E S:

E V A N K O H L M A N N

DIRECT EXAMINATION 729

CROSS-EXAMINATION 790

REDIRECT EXAMINATION. 812

BY MR. DuCHARME:

816

s T E F A N I E R O D D Y,

DIRECT EXAMINATION 816

E X H I B I T S:

801, 802, 803, 804, 805, 806, 807, 808, 809 and 757

811

Government Exhibit 1101 814

Government Exhibit 1102 815

Government Exhibit 1103 816

Government Exhibits 701-A through C 821

Government Exhibits 701-D through M 823

Government Exhibit 903 828

Government Exhibit 901 829

Government Exhibits 904 through 906 831

Government Exhibits Government Exhibits 301 837

through 309, 315 and 319 and 331

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